



W.P.No.14336 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 05.06.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

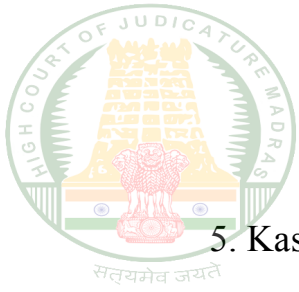
W.P.No.14336 of 2024
&
W.M.P. No.15561 of 2024 in W.P.No.14336 of 2024

Malliga

... Petitioner

Vs.

1. The District Collector
Dharmapuri District
Dharmapuri
2. The Revenue Divisional Officer
Harur
Dharmapuri District
3. The Tahsildar
Pappireddipatti Taluk
Dharmapuri District
4. The Revenue Inspector
Harur Revenue Division
Pappireddipatti Taluk
Dharmapuri District



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5. Kasi

... Respondents

WEB COPY Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorari to call for the records relating to the impugned order passed by the third respondent dated 14.05.2024 in Na.Ka.No.7060/2022/B2 and impugned notice of the 3rd respondent dated 17.05.2024 in respect of the property comprised in Survey No.68/1A1 situated at H.Putupatti Village, Pappireddipatti Taluk, Dharmapuri District and to quash the same.

For Petitioner : Mr.C.Prabakaran

For Respondents : Mr.T.K.Saravanan
Additional Government Pleader
for R1 to R4

Ms.R.Geetha Lakshmi
for Mr.J.Pradeep
for R5

ORDER

[Order of the Court was made by **M.SUNDAR, J.,**]

Captioned main 'Writ Petition' ['WP' for the sake of brevity] has been filed with a prayer for issue of writ of certiorari qua an 'order made by R3 [Tahsildar, Pappireddipatti Taluk, Dharmapuri District], which has been signed by R3 on 17.05.2024' {hereinafter 'impugned order' for the sake of brevity, convenience and clarity}.



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2.Mr.C.Prabakaran, learned counsel for writ petitioner,

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Mr.T.K.Saravanan, learned Additional Government Pleader for official respondents (R1 to R4) and Ms.R.Geethalakshmi, learned counsel representing Mr.J.Pradeep, counsel on record for R5 (private respondent) are before this Court.

3. After hearing all the afore-referred counsel, we find that this is a matter which deserves to have the writ petitioner relegated to alternate remedy of statutory appeal under Section 10 of said 1905 Act. The simple reason is, the impugned order has been made by R3 under Section 6 of 'the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' {hereinafter 'said 1905 Act' for the sake of brevity}.

4. It is necessary to capture certain dates. As already alluded to supra, the impugned order made by R3 is dated 17.05.2024, the same has been served on the writ petitioner on 23.05.2024 and the captioned writ petition has been filed in this Court on 27.05.2024.

5. In the light of the narrative thus far, the following order is made:

- i) The impugned order being order signed by R3 on 17.05.2024 is not interfered with and we are not issuing a writ



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of certiorari. However, it is made clear that we are not expressing any view or opinion on the merits of the impugned order as we are relegating the writ petitioner to alternate remedy of appeal;

ii) Learned counsel for writ petitioner Mr.C.Prabakaran, on instructions, submits that the writ petitioner will now file a statutory appeal under Section 10 of said 1905 Act along with a stay petition under Section 10-B of said 1905 Act before R1 (to be noted, R1 is the Appellate Authority) within three weeks from today i.e., on or before 26.06.2025.

iii) If the writ petitioner files a statutory appeal and a stay petition under Section 10 and Section 10-B respectively of said 1905 Act, the same shall be considered on its own merits and in accordance with law by R1 (Appellate Authority) untrammelled by the instant order;

iv) Appellate Authority (R1) shall entertain the statutory appeal, if filed on or before 26.06.2025, as 30 days time is available to the writ petitioner for filing statutory appeal vide



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Section 11 of said 1905 Act. This means that we are excluding the period spent by writ petitioner in this Court *inter alia* by resorting to Section 14 of the Limitation Act;

v) If the writ petitioner files the appeal along with the stay petition on or before 26.06.2025, the stay petition shall be disposed of by the Appellate Authority (R1) as expeditiously as the business of R1 permits but in any event on or before 17.07.2025;

vi) Coercive action, if any and if that be so, will be subject to and depending on orders of R1 in the stay petition.

vii) If the writ petitioner does not prefer a statutory appeal along with the stay petition on or before 26.06.2025, it will be open to the official respondents to put into motion and implement the impugned order without any reference to this Court;

viii) Though obvious we make it clear that all the rights and contentions of writ petitioner as well as R5 (to be noted, R5 has sought removal of alleged encroachment) remain preserved



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for all proceedings including statutory appeal which may ensue.

WEB COPY Captioned writ petition disposed in the aforesaid manner. In the light of the order made in the main WP, captioned WMP becomes otiose and the same is disposed of as closed. There shall be no order as to costs.

(M.S.,J.) (H.C.,J.)
05.06.2025

Index : Yes / No
Neutral Citation : Yes / No
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**and
HEMANT CHANDANGOUDAR, J.,**

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