



W.P.No.17363 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.07.2025

CORAM

THE HONOURABLE Mr. JUSTICE M.SUNDAR
AND

THE HONOURABLE Mr. JUSTICE HEMANT CHANDANGOUDAR

W.P.No.17363 of 2025

AND

W.M.P.No.19683 of 2025

P.Selvakumar

.. Petitioner

Vs.

1.The Forest Range Officer
Serviroys Sought Range
Salem 636 007

2.The Tahsildar

Omalur Taluk

Salem District 636 455

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issue of a writ of certiorarified mandamus to call for the records of the 1st respondent dated 12.04.2025 in Na.Ka.No.405 of 2024 dated 12.04.2025 and quash the same and consequently direct the 1st and 2nd respondents to measure the property to decide the alleged encroachment.

For petitioner

: Mr.B.Nedunchezhiyan

For R1

: Dr.T.Seenivasan

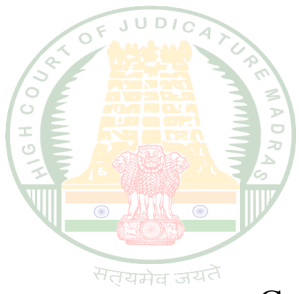
Special Government Pleader

For R2

: Mr.M.S.Arasakumar

Government Advocate

ORDER



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(made by M.SUNDAR, J.)

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Captioned main 'writ petition' (hereinafter 'WP' for the sake of brevity) has been filed with a prayer for issue of a writ of certiorarified mandamus.

2. In and *vide* the certiorari limb of the prayer, an order dated 12.04.2025 bearing reference Na.Ka.No.405 of 2024 made by R1 (Forest Range Officer) has been assailed. As regards the consequent mandamus limb, writ petitioner has sought a direction (mandamus *qua* both the respondents to measure the property) to take a decision regarding alleged encroachments.

3. Mr.B.Nedunchezhiyan, learned counsel for writ petitioner, Dr.T.Seenivasan, learned counsel for R1 and Mr.M.S.Arasakumar, learned Government Advocate for R2 are before us.

4. Main WP was taken up with the consent of all the aforementioned counsel and the same was heard out.

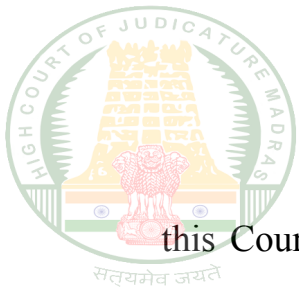
5. Factual matrix in a nutshell is that the writ petitioner came before this Court earlier *vide* W.P.No.462 of 2020 together with WMP thereat assailing proceedings dated 09.12.2019 made by R1, calling upon the writ petitioner to



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remove encroachment and seeking direction to R1 and R2 (Tahsildar) to measure the property to ascertain if there is any buffer land between the forest land and petitioner's patta land in Survey No.2/2 in Thathaingarapatti Village, Omalur Taluk, Salem District; that it is to be noted that writ petitioner's patta land in Survey No.2/2 is not subject matter of removal of encroachment by R1; that this W.P.No.462 of 2020 along with WMP came to be disposed of by another Hon'ble Division Bench in and by order dated 26.02.2024, returning a finding that the writ petitioner is an encroacher and he has encroached upon forest land to an extent of 2.50 acres in Pannikkaradu reserve forest; that this factual finding was returned by another Hon'ble Division Bench placing reliance on inspection by revenue authorities with the assistance of jurisdictional surveyor in the presence of writ petitioner and a report which was placed before the Court; that however, in the earlier order, the other Hon'ble Division Bench directed R1 to commence the exercise of protecting forest lands from encroachment and complete the exercise within six weeks; that pursuant to the such directive, R1 issued a notice dated 06.11.2024, bearing reference No.Na.Ka.No.405/2024, purportedly issued under Section 68-A of 'the Tamil Nadu Forest Act, 1882 (Tamil Nadu Act V of 1882)' [hereinafter 'said Act' for the sake of brevity], calling upon the writ petitioner to remove the encroachment; that this 06.11.2024 notice was assailed by the writ petitioner in



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this Court *vide* W.P.No.6139 of 2025 and this WP along with WMPs thereat

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came to be disposed of by an order dated 06.03.2025, *inter alia* directing the 06.11.2024 notice to be treated as a Show Cause Notice (SCN) (in the light of the language in which Section 68-A is couched), consider the representation of the writ petitioner and make orders; that thereafter, the impugned order has been made by R1.

6. Notwithstanding myriad grounds and points raised in the writ affidavit, learned counsel for writ petitioner predicates his campaign against the impugned order on one point and that one point is that the writ petitioner's reply dated 19.11.2024 has not been considered in detail.

7. In response to the aforementioned campaign *qua* the impugned order, learned State Counsel, adverting to the impugned order, pointed out that 19.11.2024 reply has been considered and the contents are found to be incorrect. On this basis, the impugned order calls upon the writ petitioner to remove the encroachment *qua* forest land.

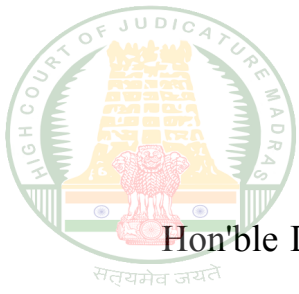
8. We carefully considered the rival submissions. We do find that R1 has



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dealt with writ petitioner's response dated 19.11.2024 summarily though and therefore, it cannot be gainsaid that 19.11.2024 representation has not been considered at all *qua* proviso (b) to Section 68-A of said Act but the problem presents itself in a different form for the writ petitioner. As already alluded to *supra* in the earlier order dated 26.02.2024 made in W.P.No.462 of 2020, another Hon'ble Division Bench has returned a categorical finding that the writ petitioner is an encroacher *vide* 2.50 acres of forest land. This order was assailed by the writ petitioner in Hon'ble Supreme Court *vide* Special Leave to Appeal (C) No.9477/2024 and the same came to be dismissed at SLP stage *i.e.*, in the pre-leave stage of Article 136 of the Constitution of India *vide* order dated 29.04.2024. This means that doctrine of merger may not be attracted but the factual finding returned by the other Hon'ble Division Bench is fatal to the writ petitioner as in the impugned order, R1 has categorically referred to the order in the earlier WP being order dated 26.02.2024 in W.P.No.462 of 2020 and averred that the factual position that the writ petitioner is an encroacher *qua* forest land is by way of a finding returned in a judicial order. Therefore, notwithstanding summary manner in which writ petitioner's response dated 19.11.2024 has been dealt with and though the same may not qualify as having been 'duly considered' within the meaning of proviso (b) to Section 68-A of said Act, in deference to the factual finding returned by another



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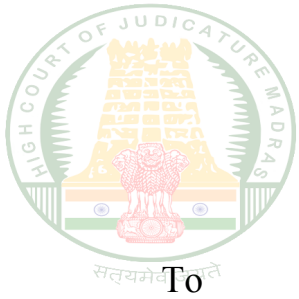
Hon'ble Division Bench, more particularly, after enquiry in the presence of the

writ petitioner and that the SLP filed by the writ petitioner before the Hon'ble Supreme Court was dismissed, we refrain from acceding to the certiorari prayer. The mandamus limb of prayer is consequent to the certiorari limb and therefore, the question of acceding to the mandamus limb does not arise.

9. *Ergo*, the sequitur of the narrative, discussion and dispositive reasoning thus far is, captioned WP is dismissed. Consequently, WMP thereat perishes with the same and the same is also dismissed. There shall be no order as to costs.

(M.S., J.) (H.C., J.)
02.07.2025

Index : Yes/No
Neutral Citation : Yes/No
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To
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Serviroys Sought Range
Salem 636 007

2.The Tahsildar
Omalur Taluk
Salem District 636 455



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M.SUNDAR, J.

AND

HEMANT CHANDANGOUDAR, J.

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