



W.P.No.16695 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 27.06.2025

CORAM

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

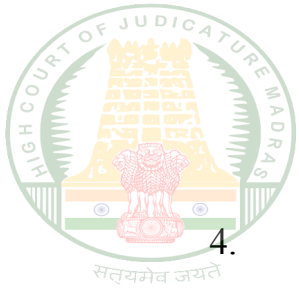
W.P.No.16695 of 2024
and
W.M.P.No.18335 of 2024

BSCPL Infrastructure Limited
(Project Name : Bollineni Hill side & Co. Ltd.,)
Represented by its Authorised Signatory
S.Ganesh

... Petitioner

VS.

1. State of Tamil Nadu
Rep. by the Secretary to Government
Revenue and Disaster Management Department
Fort St.George
Chennai-600 009.
2. The Commissioner
Land Administration
Chepauk, Chennai-600 005.
3. The District Collector
Chengalpet District
Chengalpet.



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4. The Tahsildhar
Tambaram
Chengalpet District.

5. The Revenue Inspector
Medavakkam (Sub Circle)
Tambaram,
Chengalpattu District.

6. Chennai Metropolitan Development Authority
Thalamuthu - Natarajan Maaligai
No.1, Gandhi Irwin Road
Egmore, Chennai-600 008.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in G.O.No.569 dated 24.11.2023 and quash the same and forbearing the respondents 1 to 5 not to interfere with the peaceful and enjoyment of their land in S.No.416/1 in Perumbakkam Village, Tambaram Circle, Chengalpet District.

For Petitioner : Mr.M.Baskar

For Respondents : Mr.T.K.Saravanan

Additional Government Pleader
for R1 to R5

Mr.Vinoba, Standing Counsel, for R6



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ORDER

[Order of the Court was made by **HEMANT CHANDANGOUDAR.J.,**]

The captioned Writ Petition (hereinafter referred to as 'WP' for the sake of brevity, convenience, and clarity) has been filed challenging the order dated 24.11.2023 passed by the first respondent, whereby the revision petition filed by the petitioner under Section 10-A of The Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905) (hereinafter referred to as 'the said 1905 Act') was dismissed.

2. The factual matrix leading to the filing of this WP is as follows:
The petitioner was issued an order under Section 6 of the said 1905 Act directing removal of alleged encroachment on Government land in Survey No.416/1, situated in Perumbakkam Village, Tambaram Circle, Chengalpet District. Aggrieved by the said order, the petitioner preferred a revision petition under Section 10-A of the said 1905 Act before the first respondent. The said revision petition came to be dismissed by the impugned order dated 24.11.2023.

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WEB COPY 3. Heard Mr. M. Baskar, learned counsel for the petitioner; Mr. T.K. Saravanan, learned Additional Government Pleader for respondents 1 to 5; and Mr. Vinoba, learned Standing Counsel for the sixth respondent.

4. The primary contention raised by the petitioner is that the authority who originally heard the revision petition, namely Mr. Kumar Jayant, Additional Chief Secretary to the Government, was subsequently transferred without rendering a decision, and his successor, Mr. V. Rajaram, Secretary to the Government, passed the impugned order without affording any personal hearing to the petitioner. This, according to the petitioner, constitutes a violation of the principles of natural justice, particularly the well-settled doctrine that “one who hears must decide”.

5. To substantiate this contention, the learned State Counsel has placed on record relevant communications issued by the Government. It is evident that a notice dated 12.07.2023 was issued by Mr. Kumar Jayant, scheduling a personal hearing on 27.07.2023 at 4.00 p.m. in his chamber.



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Subsequently, the matter was adjourned, and another notice dated 02.08.2023 fixed the hearing on 18.08.2023 at 3.45 p.m. On the said date, the petitioner appeared, made oral submissions, and also submitted a written representation. However, before rendering a decision, Mr. Kumar Jayant was transferred on 19.08.2023. Thereafter, the impugned order came to be passed by Mr. V. Rajaram, his successor in office without providing an opportunity to the Petitioner.

6. It is a settled (trite) proposition of law that the authority who hears the matter must be the authority who passes the order. If an authority who did not conduct the hearing passes the order, it amounts to a violation of the principles of natural justice. To put it simply, the authority that decides must also hear.

7. This flows from the fact that the person who has heard the parties is in the best position to assess their submissions, and the nuances of the case. The hearing and the decision-making process are considered inseparable functions. Therefore, substitution of the decision-making



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authority without a fresh hearing vitiates the decision-making process and renders the resultant order legally infirm, being contrary to the principles of natural justice.

8. In the light of the above circumstances, this Court is of the considered view that the impugned order dated 24.11.2023 passed by the first respondent in G.O. No. 569 deserves to be interfered with and is therefore, set aside. Accordingly, the writ petition is allowed with the following directions;

- i. The matter is remanded to the first respondent for fresh consideration of the revision petition filed by the petitioner under Section 10-A of the said 1905 Act. The first respondent shall afford the petitioner an opportunity of personal hearing and thereafter pass a reasoned and speaking order on merits in accordance with law, within a period of eight (8) weeks from the date of receipt of a copy of this order.



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ii. It is made explicitly clear that this Court has not expressed any opinion on the merits of the case, and all contentions raised by both sides are left open to be considered afresh by the first respondent.

iii. It is further clarified that in the event the petitioner fails to appear on the date to be fixed for personal hearing, the first respondent shall be at liberty to proceed ex parte and pass appropriate orders in accordance with law.

iv. Consequently, the connected Miscellaneous Petition stands closed.

There shall be no order as to costs.

(M.S.J.,)

(H.C.J.,)

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Index : Yes / No

Neutral Citation : Yes / No

Speaking / Non-speaking

mk

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**M.SUNDAR, J.,
and
HEMANT CHANDANGOUDAR, J.,**

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