



W.P.No.18756 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2025

CORAM

THE HONOURABLE Mr. JUSTICE M.SUNDAR

AND

THE HONOURABLE Mr. JUSTICE HEMANT CHANDANGOUDAR

W.P.No.18756 of 2025

AND

W.M.P.Nos.20996 & 21001 of 2025

1.T.Vennila

2.Thairiyanathan

.. Petitioners

Vs.

1.The District Collector

Tiruvallur District

Tiruvallur 602 001

2.The Revenue Divisional Officer

O/o.The Revenue Divisional Office

J.N.Road

Tiruvallur & District 602 001

3.The Tahsildar

Avadi Taluk

Avadi, Chennai 600 054

4.The Block Development Officer/The Commissioner

Poonamallee Panchayat Union

Poonamallee, Chennai 600 056



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5.The President

Nemilicherry Village Panchayat

Nemilicherry, Avadi Taluk

Chennai 602 024

6.Ramasamy

President

Rajiv Nagar Residential Welfare Association

Nemilicherry, Avadi Taluk

Chennai 602 024

7.The Revenue Inspector

Thirunindravur Firka

Thirunindravur, Chennai 602 024

8.The Commissioner of Police

Avadi City Police Commissionerate

Avadi, Chennai 600 054

9.The Assistant Commissioner of Police

Pattabiram Range

Pattabiram, Chennai 602 024

10.The Inspector of Police

T-9 Pattabiram Police Station

Pattabiram, Chennai 600 072

11.The Superintendent of Police

Northern Range

Directorate of Vigilance and Anti-Corruption (DVAC)

No.293, M.K.N. Road, Alandur, Chennai 600 016

12.The Project Director

District Rural Development Agency

Thiruvallur 602 004

13.Saraswathi Ammal

14.P.Mohan

.. Respondents



W.P.No.18756 of 2025

Writ Petition filed under Article 226 of the Constitution of India praying for issue of a writ of certiorarified mandamus calling for the records relating to the impugned order made in Na.Ka.No.2083-2023-A5 dated 01.11.2023 issued by the 2nd respondent and impugned patta Transfer Order made in T.R.2023/01/12/000581SD dated 24.11.2023 insofar as the survey No.104/1A1A1 is concerned as well as impugned rejection order made in Na.Ka.No.2088/2022/Aa1 dated 21.03.2025 issued by the 3rd respondent and quash the same and to direct the respondents 1 to 3 to drop all the proceedings pending against the petitioners.

For Petitioners	: Mr.A.Prakash
For RR1 to 3, 5, 7 & 12	: Mr.C.Kathiravan Special Government Pleader
For R4	: Mr.K.Suresh
For RR8, 9, 10 & 11	: Mr.S.Santhosh Government Advocate
For R6	: Mr.J.Lakshmi Narayanan
For R14	: Mr.L.Chandrakumar
For R13	: No appearance

ORDER

(made by M.SUNDAR, J.)

Captioned main 'writ petition' [hereinafter 'WP' for the sake of brevity] and the captioned 'writ miscellaneous petitions' [hereinafter 'WMPs' for the sake of brevity] thereat will now stand disposed of by the instant order which will not impact or touch upon the rights of the private respondents (R13 and R14). Therefore, we dispense with notice to R13 and R14 and take up the main



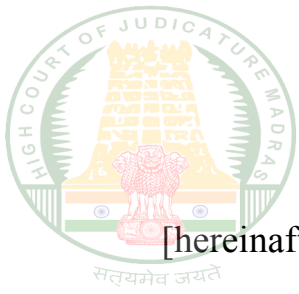
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WP with the consent of learned counsel for writ petitioners and learned State counsel for official respondents.

2. Subject matter of captioned WP is 'land comprised in Survey Nos.104/1, 108/1 and 108/2B in Nemilicherry Village, Avadi Taluk, Tiruvallur District' [hereinafter 'said lands' for the sake of convenience and clarity] and alleged encroachment to an extent of 65 cents *qua* said lands.

3. Writ Petition in W.P.No.11095 of 2019 was filed by a Residents Welfare Association with a Removal of Encroachment (RoE) prayer *qua* Survey No.108/2B. (To be noted, Survey No.108/2B is one of the survey numbers *qua* said lands) and this Writ Petition came to be disposed of by another Hon'ble Division Bench in and by order dated 19.02.2020, wherein, a direction to initiate action against private respondent thereat (2nd petitioner before us) after issuing a notice and giving an opportunity, was issued but R2 (Revenue Divisional Officer) has made an order dated 01.11.2023 bearing reference Na.Ka.No.2083-2023-A5 citing this judicial order.

4. Learned counsel for writ petitioners submits that no statute such as 'The Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)'



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[hereinafter 'said 1905 Act' for the sake of brevity] or any other applicable

appropriate statute which provides for a mechanism *qua* RoE has been invoked.

5. Learned counsel also points out that pending instant WP, the Special Officer of Nemilicherry Panchayat in Poonamallee Panchayat Union has issued a notice signed on 02.07.2025, stating that it is a notice under Section 131 of The Tamil Nadu Panchayats Act, 1994, to make it clear that there will be eviction on 16.07.2025 *vide* said 1905 Act.

6. Learned State Counsel submitted that this 02.07.2025 notice is under Section 131(2) of The Tamil Nadu Panchayats Act, 1994 and therefore, proceedings under said 1905 Act has to be commenced.

7. This means that writ petitioner has to be put on notice *vide* Section 7 of said 1905 Act, followed by an order under Section 6 considering the cause shown by the writ petitioners which is an appealable order with a provision for further revision. In this regard, before proceeding further, it is deemed appropriate to write that this Court, in **C.Gopinathan** case reported in **2025:MHC:1162** (order dated 29.04.2025 in W.P.Nos.8355 and 8357 of 2022 and W.M.P. Nos.8324 and 8237 of 2022 thereat), respectfully following



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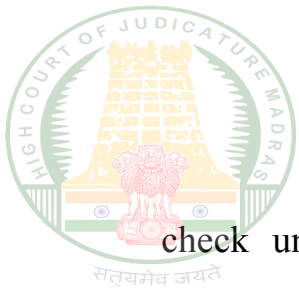
Girnar principle, *i.e.*, declaration of law made by a Constitution Bench of the

Hon'ble Supreme Court in **Girnar Traders (3) vs. State of Maharashtra**

reported in (2011) 3 SCC 1, held that said 1905 Act is a self-contained Code.

Girnar principle is that if a statute provides for a complete machinery to deal with the purpose sought to be achieved by that law and its dependence on other legislations is either absent or minimal, such a statute is a self- contained Code.

8. The eco-system of said 1905 Act, *i.e.*, the purpose sought to be achieved by said 1905 Act is to lay down a procedure for eviction of encroachment of lands belonging to the Government. As regards said 1905 Act, *inter alia*, there is a provision to have the alleged encroacher show caused under Section 7 of said 1905 Act followed by an order under section 6 (considering the cause shown). The order under Section 6 is appealable. Section 10 is the appeal provision and *inter alia* District Collector is the appellate authority and there is a provision for further revision to the Government under Section 10-A of said 1905 Act. Pending appeal / revision, there is a provision for making interim prayer *vide* Section 10-B of said 1905 Act. This order of Revisional Authority is obviously subject to judicial review. This is the legal architecture of the machinery put in place to deal with the purpose sought to be achieved by said 1905 Act. Such a three-tier machinery has been put in place to



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check unauthorised occupation of lands which are the properties of the Government (besides imposition of penal or prohibitory assessment or charge), after giving adequate and ample opportunity to a person who is alleged to be in occupation of public roads, streets, lanes and paths, bridges, ditches, dikes and fences, rivers, streams, nalas, lakes, tanks and such other properties of Government.

9. The purpose sought to be achieved by said 1905 Act and the architecture of the machinery put in place to achieve the same, when tested on the touchstone of **Girnar** principle, leaves us with the view that said 1905 Act is a self-contained Code which provides for complete machinery to deal with the purpose sought to be achieved with no dependence on other legislations or at the highest minimal dependence on other legislations. Suffice to say that said 1905 Act is clearly a self-contained Code.

10. As proceedings under said 1905 Act are to be commenced, we deem it appropriate to set aside a portion of the aforereferred 02.07.2025 order made by the Special Officer, Nemilicherry Panchayat in Poonamallee Panchayat Union, which fixed 16.07.2025 as the date of eviction as well as the impugned order dated 01.11.2023 bearing Na.Ka.No.2083-2023-A5 made by R2 (Revenue



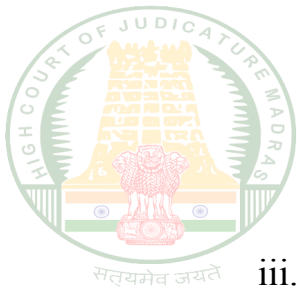
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Divisional Officer) so as to facilitate the legal drill under said 1905 Act. As

regards second impugned order being order dated 24.11.2023 transferring patta insofar as survey No.104/1A1A1, it is not clear as to whether it forms part of said lands. Therefore, we leave open the rights and contentions of the writ petitioners to assail the patta transfer order in a manner known to law so that the persons in whose favour patta has been granted, are put on notice and given an opportunity before any order is made.

11. The following order is made :

- i. Impugned order dated 01.11.2023 bearing Na.Ka.No.2083-2023-A5 made by R2 (Revenue Divisional Officer) is set aside without expressing any view or opinion one way or the other so as to enable legal drill under said 1905 Act, which, according to learned State Counsel, is in the anvil;
- ii. As regards 02.07.2025 notice issued by the Special Officer, Nemilicherry Panchayat in Poonamallee Panchayat Union, that portion of the order which says that there will be eviction forthwith and fixed the date of eviction (16.07.2025) is set aside making it clear that eviction, if at all and if that be so, will be under said 1905 Act;



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iii. As regards second impugned order dated 24.11.2023 bearing reference T.R.2023/01/12/000581SD made by R3 (Tahsildar), *inter alia* since it is not clear as to whether survey No.104/1A1A1 forms part of said lands, the same is neither sustained nor set aside but all rights and contentions of writ petitioner are left open to seek cancellation of patta in all the aforesaid proceedings. All the rights and contentions of the private respondents stand preserved when proceedings under said 1905 Act and proceedings for cancellation of patta are kickstarted; and

iv. Though obvious, we make it clear that coercive action if any and if that be so, shall be subject to proceedings under said 1905 Act which is in the anvil.

12. Captioned main WP stands disposed of on the aforesaid terms and preservation of rights as alluded to *supra*. As regards captioned WMPs, in the light of our directive *qua* coercive action, the same have become otiose and both WMPs are disposed of as closed. There shall be no order as to costs.

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

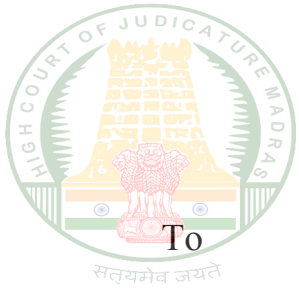
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Index : Yes/No

Neutral Citation : Yes/No

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AND

HEMANT CHANDANGOUDAR, J.

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