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W.P.No.24547 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2025

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THE HONOURABLE MR.JUSTICE **M.SUNDAR**

and

THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

W.P.No.24547 of 2025

T.Arumugam

... Petitioner

Vs.

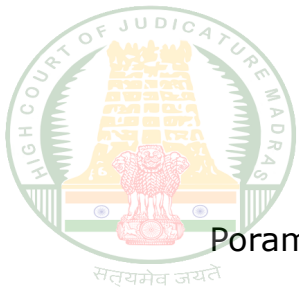
- 1.The District Collector,
Cuddalore District, Cuddalore.
- 2.The Revenue Tahsildar,
Vridachalam, Cuddalore District.
- 3.The Block Development Officer,
Khammapuram Panchayat Union,
Khammapuram, Cuddalore District.
- 4.The President,
Iruppu Panchayat Union,
Iruppu, Vridachalam Taluk,
Cuddalore District.

5.G.Sivamani
6.R.Anbarasan

... Respondents

Writ Petition filed under Article 226 of The Constitution of India
praying to issue a Writ of Mandamus directing the respondents 1 to 4
to forthwith remove all the encroachments in the Government

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Poramboke (Salai Poramboke) in Survey No.5/1 at Iruppu Village, Vridhachalam Taluk, Cuddalore District by considering and passing necessary orders on the representation of the petitioner dated 10.10.2024.

For Petitioner : Mr.K.Selvaraj
For Respondents : Mr.K.Suresh,
Government Advocate
for R1 and R2
Ms.V.Yamuna Devi,
Special Government Pleader
for R3 and R4

ORDER

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

Subject matter of captioned main 'Writ Petition' [hereinafter 'WP' for the sake of brevity] is 'Survey No.5/1 at Iruppu Village, Vridhachalam Taluk, Cuddalore District' which we are informed is 'salai poramboke', which shall hereinafter be referred to as 'said land' for the sake of convenience and clarity.

2. Mr.K.Selvaraj, learned counsel for writ petitioner submits that RoE (Removal of Encroachment) proceedings were initiated against the



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writ petitioner under 'The Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' {hereinafter 'said 1905 Act' for the sake of brevity} and the writ petitioner has removed himself the encroachment but R5 and R6 (private respondents), are also encroachers and they have been spared. This in sum and substance is the burden of the song qua writ petitioner.

3. Issue notice to official respondents.

4. Mr.K.Suresh, learned Government Advocate accepts notice for R1 and R2 and Ms.V.Yamuna Devi, learned Special Government Pleader accepts notice for R3 and R4.

5. Learned State counsel submits on instructions that RoE proceedings will be commenced against private respondents/R5 and R6 (under said 1905 Act) within a fortnight from today i.e., on or before 21.07.2025. This submission is recorded as an undertaking given to the Court. We are of the considered view that it will suffice to give a closure to the captioned WP as this order will not impact the rights and contentions of R5 and R6 in any manner. On the contrary, we make it clear that all the rights and contentions of R5 and R6 will

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stand preserved when proceedings under said 1905 Act are commenced within a fortnight from today.

6. Let proceedings under said 1905 Act which is in the anvil be continued and concluded on its own merits and in accordance with law untrammelled by this order as regards R5 and R6 are concerned. Therefore, we dispense with notice to R5 and R6 and take up the main WP with the consent of learned counsel for writ petitioner and learned State counsel.

7. Before we conclude, 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 **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.

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8. The ecosystem of said 1905 Act, i.e., the purpose sought to be achieved by said 1905 Act is to lay down 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 cause 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 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.

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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. Captioned WP is disposed of in the aforesaid manner inter-alia by recording the stated position of learned State counsel as an undertaking given to the Court and with observations and preservation of rights in the aforesaid manner. There shall be no order as to costs.

(M.S.,J.)

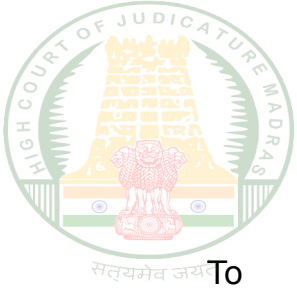
(H.C.J.)

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Index : Yes / No

Neutral Citation : Yes / No

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