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W.P.No.19544 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2025

CORAM

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

and

THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

W.P.No.19544 of 2024

Dr.Rohit, M.B.B.S., M.S.,

... Petitioner

Vs.

1.The District Collector,
Thiruvallur District,
Thiruvallur.

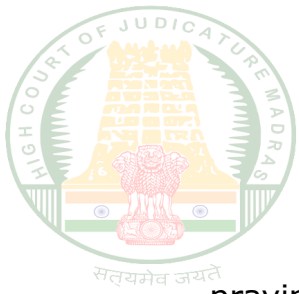
2.The Tahsildar,
Thiruvottriyur Taluk Office,
Thiruvottriyur High Road,
Thiruvottriyur, Chennai – 600 019.

3.The Deputy Collector/Estate Officer/
Deputy Collector,
Chennai Metro Rail Ltd.,
CMRL Depot, Admn Building,
Poonamallee High Road,
Koyambedu, Chennai – 600 107.

Now the office shifted to

CMRL Depot, Admin Building,
No.327, Anna Salai,
Nandhanam, Chennai – 600 035.

... Respondents



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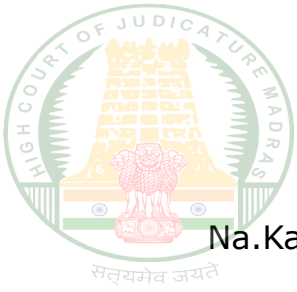
Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the proceeding of the first respondent in reference Na.Ka.No.26753/2018/A1 dated 06.08.2018 and as illegal, arbitrary, void ab initio and quash the same and consequently direct the third respondent to pay the due compensation for the petitioner's property, land and building in Old S.Nos.174/8 and 176, Re-survey No.176, Town Survey No.47/1, Ward No.J, Block No.8 to an extent 1184 sq.ft. or 109.5 sq. meter out of 3198.0 sq. meter situated at Thiruvottiyur Village, Thiruvottiyur Taluk, Chennai District and based on the petitioner's representation dated 03.01.2024 as per the provisions of the Tamil Nadu Industrial Purposes Act, 1997 (Act 10 of 1999) within a time to be stipulated by this Court.

For Petitioner : Mr.K.Dhananjayan
For Respondents : Mr.T.K.Saravanan,
Additional Government Pleader
for R1 and R2
Mr.B.Vijay,
Standing Counsel for R3

ORDER

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

In the captioned main 'Writ Petition' (hereinafter 'WP' for the sake of brevity), an order dated 06.08.2018 bearing reference



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Na.Ka.No.26753/2018/A1 made by R1 (District Collector, Thiruvallur District) has been called in question. To be noted, this is vide certiorari limb of the prayer. As regards the consequential mandamus limb of the prayer, writ petitioner has sought a direction to R3 to pay compensation for writ petitioner's 'lands in various survey numbers in Sathankadu Village, Thiruvotriyur Taluk, Chennai District' (hereinafter 'said land' for the sake of convenience and clarity).

2. Learned counsel for writ petitioner contends that writ petitioner is concerned for lands which are subject matter of the impugned order and therefore we are not dilating on the survey number.

3. When the captioned matter was listed before this Court on 18.07.2024, the following proceedings were made:

'W.P. No. 19544 of 2024
&
W.M.P. No. 21394 of 2024
in
W.P. No. 19544 of 2024



W.P.No.19544 of 2024

M. SUNDAR,J.

WEB COPY **AND**

K. GOVINDARAJAN THILAKAVADI,J.

(Order of the Court was made by M. SUNDAR,J.)

When the captioned 'Writ Petition' ['WP' for the sake of brevity] and captioned 'Writ Miscellaneous Petition' ['WMP' for the sake of brevity] were taken up, Mr.A. Sivaji, learned counsel on record for writ petitioner inter alia drew our attention to an order of Hon'ble Supreme Court dated 30.10.2023 made in a cluster of Special Leave Petitions and it is to be noted that vide this 30.10.2023 order, Hon'ble Supreme Court has allowed withdrawal of Special Leave Petitions and accordingly, SLP(C) Nos. 11209, 11210, 12120 and 12149 of 2019 have been dismissed as withdrawn.

2. *Learned counsel for writ petitioner submits that aforementioned Special Leave Petitions in the Hon'ble Supreme Court arise out a common order dated 01.11.2018 made by a Hon'ble Division Bench of this Court in WP Nos. 28698 & 28703 of 2018 and WMPs thereat.*



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3. Be that as it may, we also find that the prayer in WP is for a Certiorarified Mandamus and the Certiorari limb assails an order made nearly six years ago, being order dated 06.08.2018 bearing reference Na.Ka.26753/2018/M1 made by 1st respondent. However, as regards the order of Hon'ble Supreme Court, learned counsel for writ petitioner sought time to bring on Board supporting papers to demonstrate that the same arises out of 01.11.2018 order of Division Bench of this Court.

4. Request acceded to.

5. List under the causelist caption 'ADJOURNED ADMISSION' in the Admission Board i.e., Motion List on 05.08.2024.'

4. Adverting to aforesaid earlier proceedings, Mr.K.Dhananjayan, learned counsel for writ petitioner submits that he has placed before us one additional typed set of papers dated 20.08.2024 wherein part of SLP paper book and download from the website of Hon'ble Supreme Court have been placed before us.

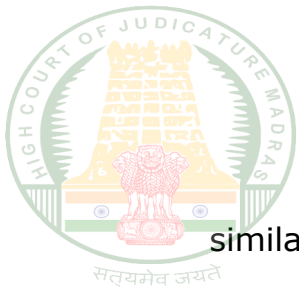


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5. Suffice to say that 30.10.2023 orders of Hon'ble Supreme Court in S.L.P.No.12149 of 2019 etc., are directed against the order dated 01.11.2018 made in W.P.No.28698 of 2018 etc., Therefore, the submission of learned counsel that he waited till 30.10.2023 to file captioned WP comes across as a reasonable submission (to be noted, SLP petitioners are similarly placed though writ petitioner is not an SLP petitioner).

6. However, captioned WP has been filed only on 03.07.2024. To be noted, we would now be relegating the writ petitioner to alternate remedy of statutory revision under Section 10A of 'The Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' {hereinafter 'said 1905 Act' for the sake of brevity}. With regard to the revision, we would be excluding the period from 03.07.2024 to date (11.07.2025) by relying on the principle underpinning Section 14 of The Limitation Act, 1963. Likewise the period between 06.08.2018 (impugned order) and 30.10.2023 has been excluded but writ petitioner has to necessarily explain the delay qua period between 30.10.2023 and 03.07.2024. The explanation of the writ petitioner that he was awaiting compensation in the light of cases of some



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similarly placed comes across as a reasonable ground but we do not want to clutch the jurisdiction of the revisional authority vide subsection (4) of Section 11 of said 1905 Act. Therefore, we leave it open to the writ petitioner to seek statutory revisional remedy vide Section 10A of said 1905 Act to assail the impugned order of R1 dated 06.08.2018 bearing reference Na.Ka.No.26753/2018/A1 with a CoD prayer seeking condonation of delay (CoD) for the period between 30.10.2023 and 03.07.2024 as the period prior to and post 03.07.2024 stands excluded by this order. The CoD prayer shall be considered by the revisional authority in accordance with law keeping in mind the observation made by this Court supra.

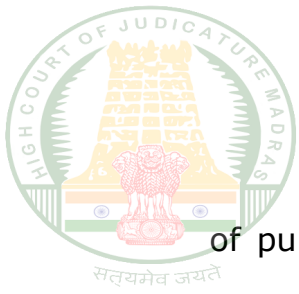
7. Before proceeding further, it is deemed appropriate to write that this Court, in **C.Gopinathan** case reported in **2025:MHC:1162** (order dated 29.04.2025 in W.P.Nos.8355 and 8357 of 2022 and W.M.P. Nos.8324 and 8237 of 2022 thereat), respectfully following **Girnar** principle, *i.e.*, declaration 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



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by that law and its dependence on other legislations is either absent or minimal, such a statute is a self contained Code.

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 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 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



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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 the writ petitioner is relegated to alternate remedy of statutory revision under Section 10A of said 1905 Act, the question of examining prayer qua consequential mandamus limb in this order does not arise. Therefore, this prayer is left open as it would depend on orders of the revisional authority.

11. Though obvious, we make it clear that this order will not serve as a precedent for all cases of CoD qua statutory revision under



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Section 10A of said 1905 Act as this order has been made taking into account the peculiar facts and circumstances including the trajectory the matters have taken i.e., the trajectory of similarly placed persons approaching the Hon'ble Supreme Court and withdrawing SLPs.

12. Captioned WP is disposed of in the aforesaid manner relegating the writ petitioner to alternate remedy with observations qua CoD. There shall be no order as to costs.

(M.S.,J.) (H.C.J.)
11.07.2025

Index : Yes / No
Neutral Citation : Yes / No
mmi

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and
HEMANT CHANDANGOUDAR, J.,**

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