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W.P.No.23678 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2025

CORAM

THE HONOURABLE MR. JUSTICE M.SUNDAR
and
THE HONOURABLE MR. JUSTICE T. VINOD KUMAR

W.P. No.23678 of 2024

C. Thiruvarul

Petitioner

vs.

1. State of Tamil Nadu
represented by its Secretary
Revenue Department
Secretariat
Chennai 600 009
2. The District Collector
Kallakurichi District
Kallakurichi
3. The Divisional Revenue Officer
Kallakurichi
Kallakurichi District
4. The Thasildar
Kallakurichi Taluk
Kallakurichi District
5. The Block Development Officer
Kallakurichi
6. Sakthivel

Respondents



W.P.No.23678 of 2024

Writ Petition filed under Article 226 of the Constitution of India

praying to issue a writ of mandamus directing the 4th respondent to take action on the petitioner's representation dated 04.04.2024 and remove the encroachment comprised in Natham Survey No.250/11, Niraimathi Village, Kallakurichi Taluk and District forthwith.

For petitioner Mr. V. Sivalingam

For RR 1 to 5 Mr. T.K. Saravanan
Additional Government Pleader

For R6 Mr. G. Balamanikandan

ORDER

[made by M.SUNDAR, J.]

Captioned 'writ petition' [hereinafter 'WP' for the sake of brevity] has been filed with a Removal of Encroachment (RoE) prayer *qua* 'land comprised in Survey No.250/11, Niraimathi Village, Kallakurichi Taluk, Kallakurichi District' [hereinafter 'said land' for the sake of convenience and clarity].

2. Case of the writ petitioner is that the writ petitioner sent a representation dated 04.04.2024, alleging encroachment in said land but there is inaction on the part of official respondents (RR 1 to 5) and that necessitated the filing of the captioned WP.



W.P.No.23678 of 2024

3. Pending captioned WP, State kickstarted RoE proceedings under 'The Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' [hereinafter 'said 1905 Act' for the sake of brevity] by issue of a show cause notice (SCN) under Section 7 of said 1905 Act being notice dated 28.04.2025. Assailing this 28.04.2025 notice, R6 (private respondent), who is noticee came to this Court by way of W.P.No.18905 of 2025 and a Vacation Bench of this Court, disposed of the writ petition by an order dated 21.05.2025, a scanned reproduction of which is as follows :

W.P.No.18905 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 21.05.2025
CORAM :
THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN
W.P.No.18905 of 2025 and
W.M.P.No.21179 of 2025

S.Sakthivel

Petitioner

Vs

1. The District Collector,
O/o.The District Collector,
kallakurichi & District.

2. The Tahsildar,
O/o. The Tahsildar,
Kallakurichi Taluk & District.

Respondents

Prayer : Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari to call for entire records connected with the 2nd Respondent's impugned Show Cause Notice in A4/1264/2023, dated 28.04.2025 issued under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 and quash the same as illegal and

Page 1 of 4



WEB COPY



W.P.No.23678 of 2024

W.P.No.18905 of 2025

arbitrary.

For the Petitioner : Mr.G.Balamanikandan

For the Respondents : Mr.K.Suresh
Government Advocate

ORDER

(Made by G.R. SWAMINATHAN, J.)

Heard both sides.

2. What is under challenge is only the notice issued under Section 7 of the Tamil Nadu Land Encroachment Act, 1905. The petitioner counsel states that the said site has been classified as "grama natham" and, therefore, respondent No.2 does not have any jurisdiction to initiate proceedings. This point can very well be taken by the petitioner before respondent No.2. Respondent No.2 will hold an enquiry and pass a speaking order dealing with the defence taken by the petitioner. If any adverse order is passed, the petitioner has an appeal remedy and, we are sure that, even if the adverse order is passed, it would not be implemented in a hurry. The petitioner should be given

Page 2 of 4



WEB COPY



W.P.No.23678 of 2024

breathing time to exhaust his remedy.

3. With the above observation and leaving open all the contentions of the petitioner, the writ petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(G.R.S.,J.)

21.05.2025

(V.L.N., J.)

Index : Yes/No
Neutral Citation : Yes/No
bbr/vum

To

1. The District Collector,
O/o.The District Collector,
kallakurichi & District.
2. The Tahsildar,
O/o. The Tahsildar,
Kallakurichi Taluk & District.



W.P.No.23678 of 2024

The aforesaid order made by another Hon'ble Division Bench shall now be read as an integral part and parcel of this order.

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4. Pursuant to the aforesaid order, there is no dispute or contestation before us as between R6 (private respondent) and State Counsel that an order/notice under Section 6 of said 1905 Act has since been made by R4 (Tahsildar), this order/notice is dated 22.05.2025 and the same has been served on R6 on 26.05.2025.

5. Learned counsel for R6 submits that Section 6 being an appealable order, R6 has filed an appeal under Section 10 of said 1905 Act but the same was not filed within 30 days and obviously, it has been filed with a condonation of delay (CoD) prayer.

6. We now find that the writ petitioner's request for RoE is underway as RoE proceedings have been kickstarted under the said 1905 Act but the alleged encroacher has to be given an opportunity and that process is underway and is at the appellate stage.



W.P.No.23678 of 2024

WEB COPY

7. Learned State Counsel submits, on instructions, that R2 (District Collector), who is the appellate authority *qua* Section 10 of said 1905 Act, will dispose of the appeal (subject, of course, to decision of appellate authority on CoD plea, if any) on its own merits and in accordance with law as expeditiously as the business of R2 permits but in any event within a period of eight weeks from today, *i.e.*, on or before 25.09.2025. The order to be made by the appellate authority shall be served under due acknowledgment on R6 as well as the writ petitioner within seven working days from the date of the order.

8. Before writing the operative portion of this order, we deem it 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. To be noted, **Girnar** principle



W.P.No.23678 of 2024

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.

9. 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 check unauthorised occupation of

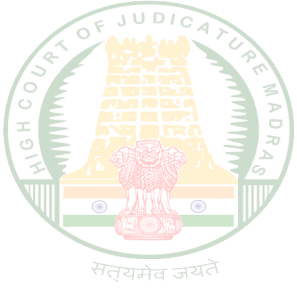


W.P.No.23678 of 2024

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.

10. 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.

11. Therefore, if anyone is aggrieved by the order to be made by R2 in the appeal, a statutory revision is available under Section 10-A of said 1905 Act and the same shall be resorted to by anyone who claims to be aggrieved by the order.



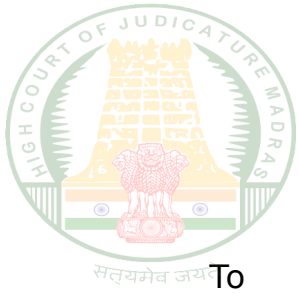
W.P.No.23678 of 2024

WEB COPY

12. Recording the stated position of the learned State Counsel that statutory appeal will be disposed of within eight weeks *i.e.*, on or before 25.09.2025, captioned WP is disposed of with the aforesaid observations and directives. There shall be no order as to costs.

(M.S., J.) (T.V.K., J.)
31.07.2025

cad/gya



W.P.No.23678 of 2024

To
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1. The Secretary to Government
Revenue Department
Secretariat, Chennai 600 009
2. The District Collector
Kallakurichi District
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W.P.No.23678 of 2024

M.SUNDAR, J.

and

T.VINOD KUMAR, J.

cad

W.P.No.23678 of 2024

31.07.2025