



W.P. No.26752 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2025

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CORAM:
THE HONOURABLE MR. JUSTICE M.SUNDAR
and
THE HONOURABLE MR. JUSTICE HEMANT CHANDANGOUDAR

W.P. No.26752 of 2025 and W.M.P. No.30057 of 2025

N. Subramanian

Petitioner

vs.

1. The District Collector
Collectorate
Kallakurichi District
Kallakurichi 606 202

2. The Tahsildar
Chinna Salem Taluk
Salem Main Road
Chinnasalem
Tamil Nadu 606 201

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari calling for records of show cause notice in Na.Ka.No.A4/2845/2024 dated 28.04.2025 on the file of the second respondent and quash the same.

For petitioner Mr. M.B. Mushtaque Ahamed

For respondents Mr. T.K. Saravanan
Addl. Govt. Pleader

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ORDER

[made by M.SUNDAR, J.]

Captioned main 'writ petition' [hereinafter 'WP' for the sake of brevity] has been filed with a prayer seeking issue of a writ of certiorari assailing a notice/order dated 28.04.2025 bearing reference Na.Ka.No.A4/2845/2024 made by R2 (Tahsildar) which shall hereinafter be referred to as 'impugned order' for the sake of convenience and clarity.

2. In the writ prayer, impugned order has been described as a show cause notice (SCN).

3. Learned counsel for writ petitioner submitted that the impugned order has been made by R2 under Section 6 of 'the Tamil Nadu Land Encroachment Act, 1905 (Act III of 1905)' [hereinafter 'said 1905 Act' for the sake of convenience and clarity], it was preceded by a notice dated 09.04.2025 from R2. It is submitted that this Section 7 notice from R2 (to be noted, Section 7 notice from R2 is an SCN) was received by writ petitioner on 19.04.2025.



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4. Though Section 7 notice dated 09.04.2025 gives 15 days time to the noticee/writ petitioner to respond, the impugned order has been made on 28.04.2025 itself and this vitiates the impugned order, is learned counsel's say.

5. Issue notice to respondents.

6. Mr. T.K. Saravanan, learned Additional Government Pleader, accepts notice for both the respondents and submits, on instructions, that the writ petitioner/noticee on being visited with Section 7 notice dated 09.04.2025, has sent a detailed reply dated 24.04.2025 and it is only after such a reply that the impugned order has been made by R2. It is also submitted by learned State counsel (on instructions) that the encroachments which are subject matter of the impugned order have since been removed on 17.06.2025.

7. From the narrative thus far, it comes to light that the legal perimeter within which the captioned main WP should perambulate is



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very limited and therefore, with the consent of learned counsel for writ petitioner and learned State counsel, captioned main WP was taken up in the Admission Board, *i.e.*, Motion List.

8. As already alluded to *supra*, notwithstanding very many averments and grounds raised in the writ affidavit, learned counsel for writ petitioner predicated his campaign against the impugned order on the short point that the SCN which preceded the impugned order gives 15 days time to the writ petitioner/noticee to respond but the impugned order has been made within 15 days. To be noted, according to learned counsel for writ petitioner, SCN dated 09.04.2025 was served on the writ petitioner only on 19.04.2025 and impugned order has been made before 15 days time elapsed.

9. We carefully considered the submissions made on either side.

10. The SCN under Section 7 dated 09.04.2025, no doubt, gives 15 days time to the writ petitioner/noticee to respond. Writ petitioner who received the SCN issued under Section 7 on



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19.04.2025, has sent a detailed response on 24.04.2025 setting out his stance and requesting further proceedings to be dropped.

Therefore, though the SCN gives 15 days time to writ petitioner/noticee, writ petitioner/noticee has chosen to reply on 24.04.2025 itself (postal receipt shows that this 24.04.2025 response has been despatched on 25.04.2025). It is only after writ petitioner's response that the impugned order has been made. Therefore, the short point on which the writ petitioner predicated his campaign against the impugned order pales into insignificance. In other words, it does not hold water and it does not find favour with us.

11. Be that as it may, as regards the submission of learned State counsel that the encroachments have since been removed on 17.06.2025, learned counsel for writ petitioner submits that he has no instructions on the same. Therefore, the impugned order being an appealable order (appeal lies to R1 and the appeal is under Section 10 of said 1905 Act), we make it clear that it is open to the writ petitioner to assail the impugned order by way of statutory appeal under Section 10 of said 1905 Act along with stay petition under Section 10-B of said 1905 Act, if so advised and so desired.



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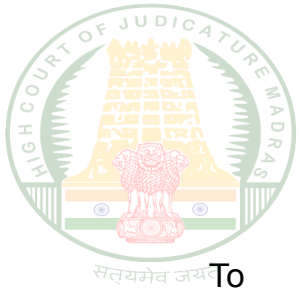
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12. Further, in this regard, we deem it appropriate to record that the writ petitioner counsel is unable to specify the exact date on which the writ petitioner received the impugned order but from the case file, we find that the captioned WP has been filed on 16.06.2025. It is, in this context, that we make it clear that statutory appeal, if any, will be subject to limitation *vide* Section 11(1) of said 1905 Act.

13. In the light of the narrative thus far, captioned main WP fails and the same is dismissed, however, with preservation of rights of the writ petitioner in the aforesaid manner and observations as above. Consequently, captioned writ miscellaneous petition thereat also perishes with the captioned main WP and accordingly, the same is also dismissed. There shall be no order as to costs.

(M.S., J.) (H.C., J.)
23.07.2025

cad
Index: Yes/No
N.C. : Yes/No



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