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W.P.No.21937 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

W.P.No.21937 of 2025
and
W.M.P. No.24682 of 2025 in W.P. No.21937 of 2025

M.Shanthi

... Petitioner

Vs.

1.The District Collector/Appellate Authority,
Thiruvannamalai District,
Thiruvannamalai.

2.The Block Development Officer (Va.Vu),
Anakkavur, Cheyyar Taluk,
Thiruvannamalai District.

... Respondents

Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus directing 1st respondent to dispose of the stay petition and appeal dated 16.06.2025 filed by petitioner within the time limit to be fixed by this Court and consequently forbearing the 2nd respondent from proceeding further, pursuant to the notice dated 13.05.2025, issued under Section 6 of the Tamil Nadu Land Encroachment Act, and notice dated 30.05.2025,



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pending disposal of the appeal dated 16.06.2025.

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For Petitioner : Dr.C.Ravichandran
For Respondents : Mr.K.Suresh,
Government Advocate for R1
Mr.T.K.Saravanan,
Addl. Govt. Pleader for R2

ORDER

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

Dr.C.Ravichandran, learned counsel on record for writ petitioner, who is before us submits that subject matter pertains to proceedings under 'The Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' {hereinafter 'said 1905 Act' for the sake of brevity}, a statutory appeal under Section 10 along with stay petition under Section 10-B are pending but pending statutory appeal and stay petition, writ petitioner is under pain of dispossession/demolition. This has necessitated the captioned 'Writ Petition' (hereinafter 'WP' for the sake of brevity) is learned counsel's further say.

2. Issue notice.

3. Mr.K.Suresh, learned Government Advocate accepts notice for R1 and Mr.T.K.Saravanan, learned Additional Government Pleader

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accepts notice for R2.

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4. Learned State counsel very fairly brings to our notice that the 'notice/order under Section 6 of said 1905 Act dated 13.05.2025' (hereinafter 'impugned notice/order' for the sake of brevity, convenience and clarity) and Section 7 notice which preceded the same have been issued by Block Development Officer. This Court has held that Block Development Officer does not have jurisdiction. In other words, learned State counsel fairly submits that the captioned matter is directly and squarely covered by **Seethalakshmi case** being order dated 06.06.2025 made in W.P.No.11712 of 2024 and W.M.P.No.12800 of 2024 thereat. The order reads as follows:

'IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2025

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

W.P.No.11712 of 2024

and W.M.P.No.12800 of 2024

Seethalakshmi

W/o.V.Pavadai Padaiyaatchi

... Petitioner



W.P.No.21937 of 2025

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vs.

1. *The Tahsildar
Bhuvanagiri
Bhuvanagiri (TK)
Cuddalore District.*
2. *The Block Development Officer
Bhuvanagiri (TK)
Cuddalore District.*
3. *The Panchayat President,
Periyapattu,
Periyapattu Village,
Bhuvanagiri (TK)
Cuddalore (DT).*

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus to call for the records of the 3rd respondent in connection with the impugned eviction notice dated 30.11.2022 and quash the same, consequently, forbear the respondents herein, their men and subordinates or any other persons claiming through them from in any manner interfering with our peaceful possession and enjoyment from portion of Survey Nos.63/2 and 74/1 at Periyapattu Revenue Village, Bhuvangiri (TK), Cuddalore (DT) without out following the due process of law.

For Petitioner : Mr.V.Neethidurai

*For Respondents : Mr.M.S.Arasakumar
Government Advocate*

ORDER

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

Captioned 'Writ Petition' {'WP' for the sake of brevity} has been filed inter alia assailing a 'terse notice with the seal dated 30.11.2022 issued by R3' {hereinafter 'impugned notice' for the sake of brevity,



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convenience and clarity}.

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2. Mr.V.Neethidurai, learned counsel, at the outset expresses regret for missing the matter yesterday (to be noted, the captioned WP is listed under the cause list caption 'FOR DISMISAL' today) and tenders an apology and apology is accepted.

3. Mr.V.Neethidurai, learned counsel submits that R3 does not have jurisdiction to issue the impugned notice.

4. Learned State Counsel, who has already accepted notice for respondents, on instructions submits that the impugned notice has been issued under Section 7 of 'the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' {hereinafter 'said 1905 Act' for the sake of brevity}. This Court, vide order dated 26.03.2025 in W.P.No.27887 of 2022 and W.M.P.No.27176 of 2022 has held that the Executive Officer / President of Local Body (Panchayat in this case) does not have jurisdiction to issue notice under Section 7 of said 1905 Act. A scanned reproduction of the order dated 26.03.2025 in W.P.No.27887 of 2022 and W.M.P.No.27176 of 2022 is as follows:



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W.P. No.27887 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR
and
THE HONOURABLE MRS. JUSTICE K. GOVINDARAJAN THILAKAVADI

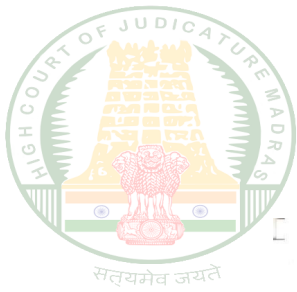
W.P.No.27887 of 2022 and W.M.P.No.27176 of 2022

C. Sivanandam vs. Petitioner

1. The District Collector
Coimbatore District
Coimbatore 641 018
2. The Revenue Divisional Officer
Sulur Taluk
Coimbatore District 641 402
3. The Tahsildar
Sulur Taluk
Coimbatore District 641 402
4. The Executive Officer
Kannampalayam Town Panchayat
Coimbatore 641 402
5. The Inspector of Police
Sulur Police Station
Sulur
Coimbatore District
6. Pushpalatha Rajagopal
President
Kannampalayam Town Panchayat
Coimbatore District 641 402

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W.P. No.27887 of 2022

7. K.N. Shanmugam
Vice President
Kannampalayam Town Panchayat
Coimbatore District 641 402

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari to call for the records relating to the impugned notice issued by the fourth respondent in Na.Ka.No.1/2022 dated 14.10.2022 under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 and to quash the same.

For petitioner Mr. G. Sankaran, Sr. Counsel
for Mr. J. Jayamalan

For respondents Mr. T.K. Saravanan
Additional Government Pleader

Adv. Commr. Mr. B. Balaji

ORDER

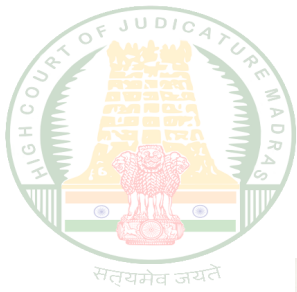
[made by M. SUNDAR, J.]

Captioned main 'writ petition' (hereinafter 'WP' for the sake of brevity) has been filed with a prayer for issue of a writ of certiorari assailing a notice/order dated 14.10.2022 bearing reference Na.Ka.No.1/2022 issued by R4 (The Executive Officer, Kannampalayam Town Panchayat, Coimbatore 641 402).

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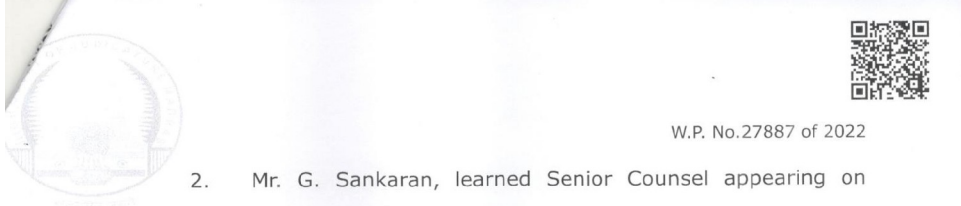
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W.P. No.27887 of 2022

2. Mr. G. Sankaran, learned Senior Counsel appearing on behalf of learned counsel on record for writ petitioner, submits that there is a report of Advocate Commissioner appointed by this Court and he has raised multiple grounds in the writ affidavit. However, notwithstanding myriad grounds raised in the writ affidavit and the trajectory the matter has taken thus far, we find that R4 does not have competence to issue the impugned notice/order. Powers under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' (for brevity 'said 1905 Act') are vested in:

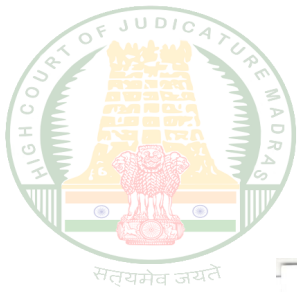
- i. Collector;
- ii. Tahsildar subject to control of Collector;
- iii. Deputy Tahsildar subject to control of Collector; and
- iv. Authorized officer being any other officer authorized by the State Government in this behalf, i.e., 'authorised officer' subject to the control of the Collector.

3. There is no dispute before this Court that R4 is not an 'authorised officer' within the meaning of Section 6 of said 1905 Act. Therefore, we interfere with the impugned notice/order on the jurisdiction point. In this view of the matter, this Court has no hesitation in writing that the impugned notice/order deserves to be dislodged.

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W.P. No.27887 of 2022

4. Be that as it may, the impugned notice/order was preceded by a notice under Section 7 of said 1905 Act being notice dated 23.09.2022 bearing Na.Ka.No.1/2022 and the same has also been issued by R4.

5. A careful perusal of the language in which Section 7 of said 1905 Act is couched, makes it clear that a notice under Section 7 can be issued only by 6 categories of authorities and they are:

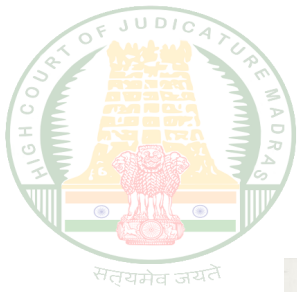
- i. Collector;
- ii. Tahsildar;
- iii. Deputy Tahsildar;
- iv. Revenue Inspector;
- v. Authorized officer; and
- vi. Specified Officer other than authorized officer.

6. There is no dispute before us that R4 is neither an 'authorised officer' nor a 'specified officer' within the meaning of Section 7 of said 1905 Act. Therefore, Section 7 notice preceding the impugned notice /order also deserves to be dislodged.

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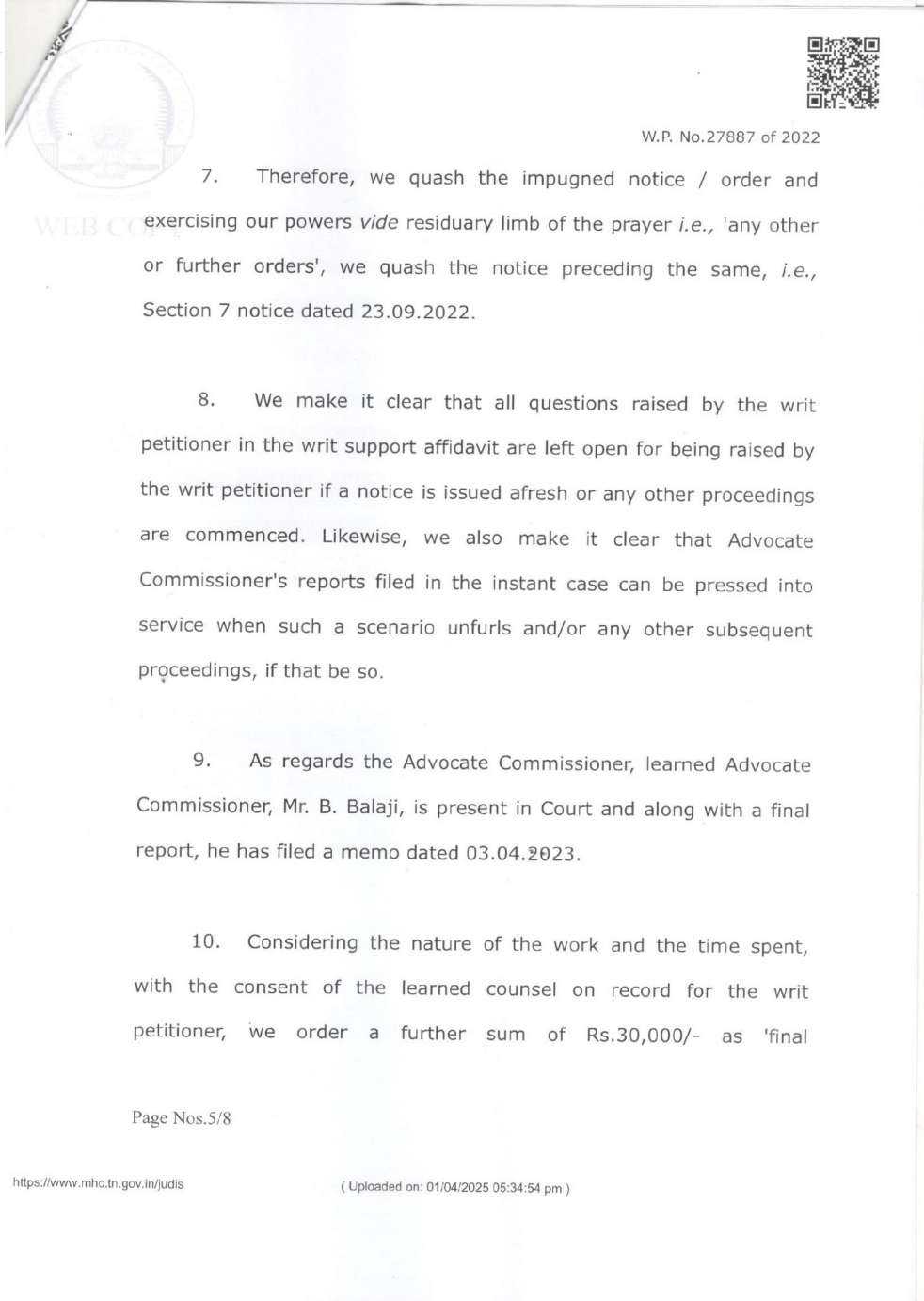
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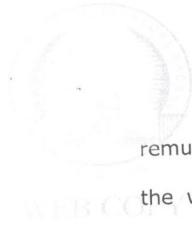
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W.P. No.27887 of 2022

remuneration' which shall be paid by the learned counsel on record for the writ petitioner to the learned Advocate Commissioner within a period of three weeks from today *i.e.*, on or before 16.04.2025.

11. *Ergo*, the sequitur is, captioned WP is allowed, a writ of certiorari is issued, impugned notice/order is set aside and the notice preceding the same is also set aside. Consequently, captioned writ miscellaneous petition thereat is disposed of as closed the same having become otiose. There shall be no order as to costs.

(M.S., J.) (K.G.T., J.)
26.03.2025

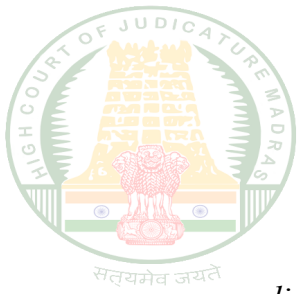
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5. *Learned State Counsel, fairly submits that the captioned matter is directly covered by the aforesaid order.*

6. *'Sauce to Goose is Sauce to Gander too' and we, therefore interfere with the impugned order and set aside the same on jurisdiction point alone. This means that we are not expressing any opinion on the merits of the matter.*

7. *We make it clear that it is open to the State to initiate appropriate action by competent authority either under said 1905 Act or under 'the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 (Tamil Nadu Act 8 of 2007)' {hereinafter 'Tanks Act' for the sake of convenience, clarity and brevity}, as the case may be (to be noted, as there is a reference to the land in question as Kuttai i.e., pond we have made it clear that action under Tanks Act also is an option). If proceedings are initiated by competent authority under either one of the aforementioned Statutes, writ petitioner shall be show-caused, given an opportunity and order shall be made, all of which, will be done on its own merits and in accordance with law untrammelled by this order which has been made only on jurisdiction point.*

8. *Captioned WP is allowed albeit with preservation of rights of both sides in the aforesaid manner. Consequently, captioned Writ Miscellaneous Petition becomes otiose and the same is disposed of as closed. There shall be no order as to costs.*

(M.S.J.) (H.C.J.)
06.06.2025'



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5. Reminding ourselves of the age old adage 'Sauce to Goose is Sauce to Gander too', we apply **Seethalakshmi principle** and set aside the impugned notice/order and Section 7 show cause notice which preceded the same. We also hold that statutory appeal before R1 being appeal dated 16.06.2025 and the stay petition will stand withdrawn.

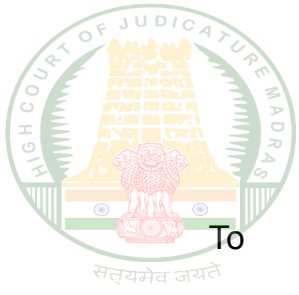
6. We make it clear that it is open to State to initiate action afresh either under the said 1905 Act or any other applicable law by issuance of notice by competent authority. If such fresh proceedings are commenced, all rights of writ petitioner are also preserved.

7. Captioned WP is allowed *albeit* with preservation of rights in the aforesaid manner. Consequently, captioned Writ Miscellaneous Petition (WMP) is disposed of as closed. There shall be no order as to costs.

(M.S.,J.) (H.C.,J.)
18.06.2025

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Neutral Citation : Yes / No
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To

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- 1.The District Collector/Appellate Authority
Thiruvannamalai District,
Thiruvannamalai.
- 2.The Block Development Officer (Va.Vu),
Anakkavur, Cheyyar Taluk,
Thiruvannamalai District.



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**M.SUNDAR, J.,
and
HEMANT CHANDANGOUDAR, J.,**

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