



W.P.No.23719 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2025

CORAM

THE HONOURABLE MR. JUSTICE M.SUNDAR
and

THE HONOURABLE MR. JUSTICE HEMANT CHANDANGOUDAR

W.P.No.23719 of 2021

R. Krishnan

Petitioner

vs.

1. The District Collector
Namakkal District
2. The Tahsildar
Rasipuram
Namakkal District
3. The Block Development Officer
Thengalpalayam Panchayat
Rasipuram
Namakkal District
4. The Panchayat President
Thengalpalayam Panchayat
Vennandhur Panchayat Union
Rasipuram
Namakkal District

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records relating to the notice dated 10.08.2021 issued by the 4th respondent which was served on the petitioner on 16.08.2021 and quash the same as illegal and consequentially, direct the 4th respondent to revamp and



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restore the well and vari vaikkal in Survey No.17/3 in Thengalpalayam Village, Rasipuram Taluk, Namakkal District to its original state within a stipulated time frame.

Schedule of Property

Half undivided share in the common well and appurtenant land measuring a total extent of 8 cents of land in Survey No.17/3 in Thengalpalayam Village, Vennandhur Panchayat Union, Rasipuram Taluk, Namakkal District, which contains a well and vari vaikkal.

For petitioner	Mr. K.R. Samratt
For RR1 & 2	Mr. T.K. Saravanan Addl. Govt. Pleader
For RR3 & 4	Mr. M.S. Arasakumar Govt. Advocate

ORDER

[made by M.SUNDAR, J.]

Captioned 'writ petition' [hereinafter 'WP' for the sake of brevity] has been filed with a prayer for issue of a writ of certiorarified mandamus.

2. The certiorari limb of the prayer is a challenge to 'a notice dated 10.08.2021 issued by R4 (Panchayat President, Thengalpalayam Panchayat, Vennandhur Panchayat Union, Rasipuram, Namakkal District)' [hereinafter 'impugned notice' for the sake of convenience and clarity]. The mandamus limb pertains to 'Survey No.17/3 in



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Thengalpalayam Village, Rasipuram Taluk, Namakkal District'

[hereinafter 'said property' for the sake of convenience and clarity]

which according to the writ petitioner, is a well and vari vaikkal (water body) and the mandamus plea is a direction to revamp and restore the water body.

3. Mr. K.R. Samratt, learned counsel on record for writ petitioner, Mr. T.K. Saravanan, learned Additional Government Pleader for RR 1 and 2 and Mr. M.S. Arasakumar, learned Government Advocate for RR 3 and 4 are before us.

4. This Court heard out both sides.

5. As regards the certiorari limb, the impugned notice does not mention the provision of law under which it has been issued. Learned State counsel for RR 1 and 2 very fairly submitted that the impugned notice has been issued under Section 131(2) of 'the Tamil Nadu Panchayats Act, 1994 (Tamil Nadu Act 21 of 1994)' [hereinafter 'said Act' for the sake of brevity]. Learned State counsel went on to add that the impugned notice being one under Section 131(2) of said



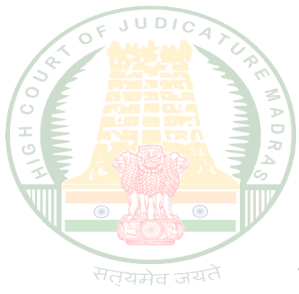
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Act means that proceedings will now have to be kickstarted under the provisions of 'the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' [for brevity 'said 1905 Act']. This submission is recorded.

6. If proceedings under the provisions of said 1905 Act are to be kickstarted, the writ petitioner will be show caused under Section 7 of said 1905 Act followed by an order under Section 6 after considering the writ petitioner's response and the order under Section 6 is appealable under Section 10 with a provision for further statutory revision under Section 10-A of said 1905 Act.

7. At this juncture, it is apropos to observe that following **Girnar** principle *i.e.*, **Girnar Traders (3) Vs. State of Maharashtra** reported in **(2011) 3 SCC 1**, this Court has repeatedly held that said 1905 Act is a self contained code. This is *vide* order dated 29.04.2025 in W.P.Nos.8355 and 8357 of 2022 reported in Neutral Citation **[2025:MHC:1162]** and relevant paragraph is paragraph No.7 which reads as follows:

'7. In **Girnar Traders (3) Vs. State of Maharashtra** reported in **(2011) 3 SCC 1**, a Constitution Bench of Hon'ble Supreme Court declared the law qua self contained Code and



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held that a statute which is a complete legislation with regard to the purpose for which it is enacted and provides for complete machinery to deal with purposes sought to be achieved by law with dependence on other legislations being absent or at best is minimal is a self contained Code. Applying **Girnar** principle, this Court has repeatedly held that said 1905 Act is a self-contained Code. The reason inter-alia is that there is a provision to have the alleged encroacher show caused under Section 7 of said 1905 Act followed by an order (considering the cause shown). The order under Section 6 is appealable under Section 10 [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. Therefore, said 1905 Act is a self-contained Code in every sense of the expression.'

8. It is also worth pointing out that this **Girnar** principle was affirmatively referred to by a 7 Member Bench of Hon'ble Supreme Court in **Interplay between Arbitration Agreements under Arbitration and Conciliation Act, 1996 and Stamp Act, 1899, In Re.** reported in **(2024) 6 SCC 1**.

9. If proceedings under said 1905 Act are kickstarted, all rights and contentions of writ petitioner raised in the captioned WP are preserved for being raised in response to the show cause notice and the same shall be considered on their own merits and in accordance with law.

10. Therefore, while we do not accede to the certiorari limb of



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the prayer and quash the impugned order, we answer the certiorari limb by writing that proceedings under the said 1905 Act shall commence and continue in accordance with said 1905 Act.

11. As regards the mandamus limb, learned State counsel very fairly submitted that the plea of the writ petitioner will be considered by R1 (District Collector) as expeditiously as the official business of R1 permits.

12. Let R1 take a decision on this plea within 14 weeks from today, *i.e.*, on or before 23.09.2025. This answers the mandamus limb of the prayer.

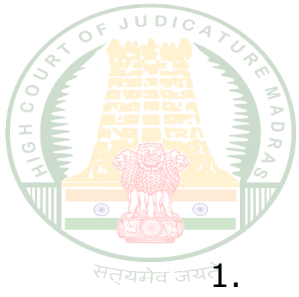
13. Captioned WP stands disposed of in the aforesaid manner. There shall be no order as to costs.

(M.S., J.) (H.C., J.)
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cad
Index: Yes/No
N.C. : Yes/No

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