



W.P.No.23011 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2025

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

W.P.No.23011 of 2025 and W.M.P.No.25841 of 2025

T.K. Ramasamy

Petitioner

vs.

The Executive Office
Elathur Town Panchayath
Elathur
Gobichettipalayam T.K.
Erode District

Respondent

Writ Petition filed under Article 226 of the Constitution of India

seeking a writ of certiorari calling for the entire records pertaining to
Na.Ka. No.161/2023 dated 23.05.2025 passed by the respondent and
quash the same.

For petitioner	Mr. M. Chinnaraj
For respondent	Mr. K. Suresh Government Advocate

ORDER

[made by M. SUNDAR, J.]

A notice 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] being notice dated 23.05.2025 bearing reference



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Na.Ka.No.161/2023 issued by sole respondent [hereinafter 'impugned notice' for the sake of convenience and clarity] has been called in question in the captioned main 'writ petition' [hereinafter 'WP' for the sake of brevity].

2. Mr. N.Chinnaraj, learned counsel on record for writ petitioner, is before us.

3. On the limited point that the sole respondent may not have jurisdiction to issue a Section 7 notice, we issue notice to sole respondent.

4. Mr. K. Suresh, learned Government Advocate, who accepts notice for sole respondent, very fairly submitted that the sole respondent does not have jurisdiction to issue the impugned notice. Learned State counsel also, in his usual fairness, placed before us, the order dated 06.06.2025 made in W.P.No.11712 of 2024 wherein this very Bench has taken a view that Block Development Officer does not have power to issue a Section 7 notice. The said order reads as follows:

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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

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



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ORDER

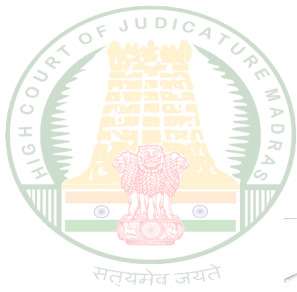
[Order of the Court was made by M. SUNDAR, J.]

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, convenience and clarity}.

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.23011 of 2025

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

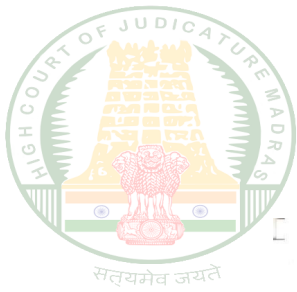
W.P.No.27887 of 2022 and W.M.P.No.27176 of 2022

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.23011 of 2025



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.]

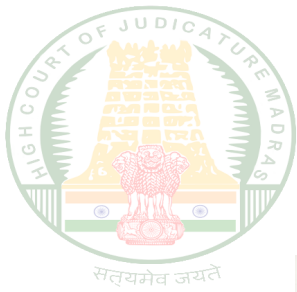
Captioned main 'writ petition' (hereinafter 'WP' for the sake of brevity) has been filed with a prayer for issue of a writ of certiorari assailing a notice/order dated 14.10.2022 bearing reference Na.Ka.No.1/2022 issued by R4 (The Executive Officer, Kannampalayam Town Panchayat, Coimbatore 641 402).

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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.

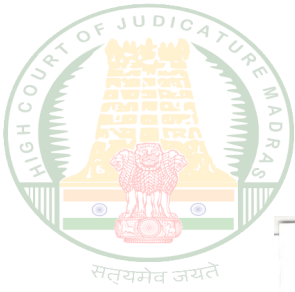
3. There is no dispute before this Court that R4 is not an 'authorised officer' within the meaning of Section 6 of said 1905 Act. Therefore, we interfere with the impugned notice/order on the jurisdiction point. In this view of the matter, this Court has no hesitation in writing that the impugned notice/order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

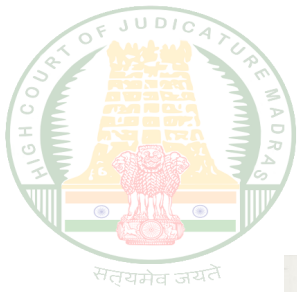
- i. Collector;
- ii. Tahsildar;
- iii. Deputy Tahsildar;
- iv. Revenue Inspector;
- v. Authorized officer; and
- vi. Specified Officer other than authorized officer.

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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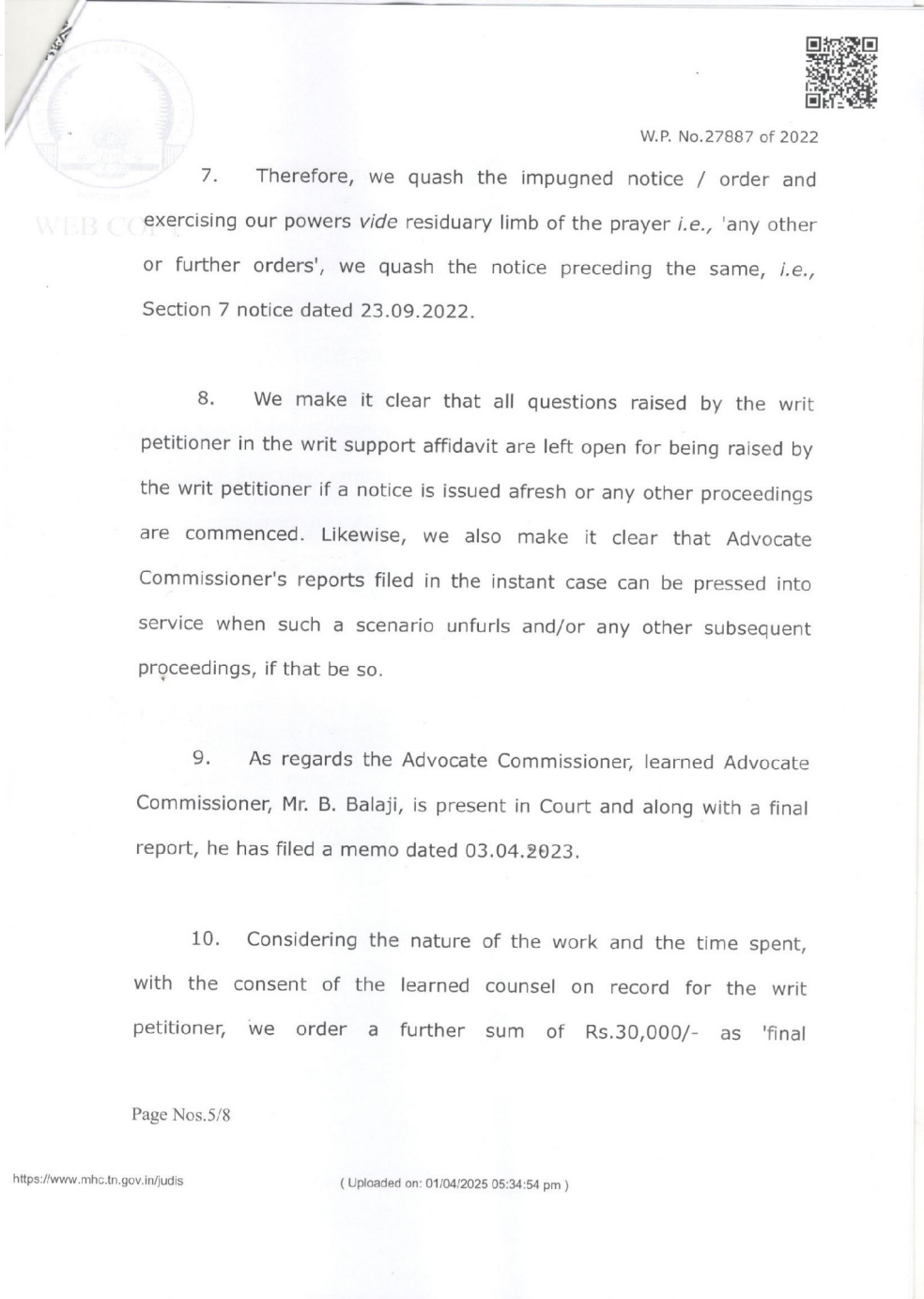
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W.P. No.27887 of 2022

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

cad : Yes/No
Index : Yes/No
NC : Yes/No

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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'

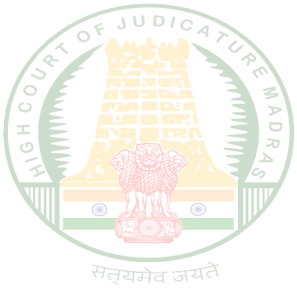


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5. A perusal of Section 7 of said 1905 Act and the scheme of said 1905 Act makes it clear that what applies to the Block Development Officer applies on all fours to the sole respondent too. Therefore, we dislodge the impugned notice on this short point but in the same breath, we preserve all the rights and contentions of the State or appropriate Revenue authorities to initiate proceedings under said 1905 Act again, by issuance of notice by competent authorities. If such a course is adopted, we equally preserve all the rights and contentions of the writ petitioner (including the grounds urged in the captioned WP) to respond to such notice under said 1905 Act.

6. In the light of the narrative thus far, it is clear that the captioned WP now stands vastly descoped 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.



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7. Sequitur of the narrative, discussion and dispositive reasoning thus far is, captioned main WP is allowed, albeit with preservation of rights and contentions of both sides in the manner alluded to *supra*. Consequently, W.M.P.No.25841 of 2025 stands disposed of as closed. There shall be no order as to costs.

(M.S., J.) (H.C., J.)
26.06.2025

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Index: Yes/No
N.C. : Yes



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W.P.No.23011 of 2025

M.SUNDAR, J.

and

HEMANT CHANDANGOUDAR, J.

cad

To

The Executive Office
Elathur Town Panchayath
Elathur
Gobichettipalayam T.K.
Erode District

W.P.No.23011 of 2025

26.06.2025

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