



W.P.No.22897 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 18.07.2025

CORAM

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

W.P.No.22897 of 2021 & W.M.P.No.24099 of 2021

M.Krishnaveni

...Petitioner

vs.

The Block Development Officer
(Village Panchayat)
Uthangarai, Krishnagiri District

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari calling for the entire records relating to the order dated 09.09.2021 issued under Section 6 of the Land Encroachment Act, 1905 (Act 3 of 1905) on the file of the respondent herein and quash the same.

For petitioner : Mr.R.Kothandapani
For Respondent : Mr.T.K.Saravanan
Additional Government Pleader

ORDER

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

When the matter was taken up, learned State counsel fairly submitted that the captioned matter is directly and squarely covered by ***C.Sivanandam***

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case i.e., order dated 26.03.2025 in W.P.No.27887 of 2022 and WMP thereat

to which one of us (M.SUNDAR.,J.) was a party and the same reads as follows:



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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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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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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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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7. Therefore, we quash the impugned notice / order and exercising our powers *vide* residuary limb of the prayer *i.e.*, 'any other or further orders', we quash the notice preceding the same, *i.e.*, Section 7 notice dated 23.09.2022.

8. We make it clear that all questions raised by the writ petitioner in the writ support affidavit are left open for being raised by the writ petitioner if a notice is issued afresh or any other proceedings are commenced. Likewise, we also make it clear that Advocate Commissioner's reports filed in the instant case can be pressed into service when such a scenario unfurls and/or any other subsequent proceedings, if that be so.

9. As regards the Advocate Commissioner, learned Advocate Commissioner, Mr. B. Balaji, is present in Court and along with a final report, he has filed a memo dated 03.04.2023.

10. Considering the nature of the work and the time spent, with the consent of the learned counsel on record for the writ petitioner, we order a further sum of Rs.30,000/- as 'final

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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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2. In the case on hand, the impugned order under Section 6 of 'the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)'

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{hereinafter 'said 1905 Act' for the sake of brevity} has been made by sole respondent (Block Development Officer). The impugned order was preceded by a notice under Section 7 being notice dated 07.09.2021 and the same has been issued by the sole respondent. Paragraphs 5 to 7 of *C. Sivanandam's* case are relevant.

3. Applying *C. Sivanandam* principle, captioned WP stands allowed, the impugned order dated 09.09.2021 and the notice preceding the same dated 07.09.2021 are set aside preserving all the rights and contentions of the State to commence proceedings afresh by a competent authority. It is made clear that if such proceedings are commenced, all rights and contentions of writ petitioner also will stand preserved. Consequently, captioned WMP is closed. There shall be no order as to costs.

[M.S.,J.]

[H.C.,J]

18.07.2025

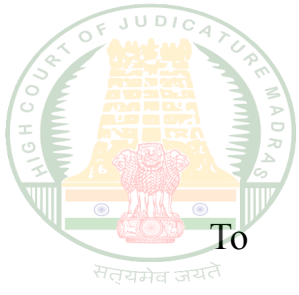
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To

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The Block Development Officer
(Village Panchayat)
Uthangarai
Krishnagiri District



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

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