



W.P.No.2527:



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2025

CORAM:

THE HONOURABLE MR. JUSTICE M. SUNDAR

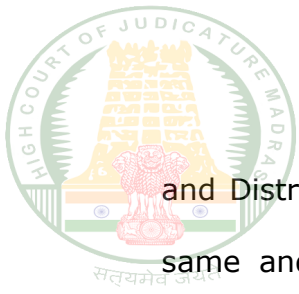
AND

THE HONOURABLE MR. JUSTICE HEMANT CHANDANGOUDAR

W.P. No.25273 of 2025 and W.M.P.No.28447 of 2025

- | | | |
|----|--|-------------|
| 1. | Palanisamy | |
| 2. | Muthusamy | Petitioners |
| | | VS. |
| 1. | The District Collector
Collectorate
Tiruchengode Road
Namakkal District | |
| 2. | The District Revenue Officer
Office of the District Revenue Officer
Selected Campus
Thummanguruchi
Namakkal District | |
| 3. | The Tahsildar
Tahsildar Office
Mohanur Road
Namakkal District | |
| 4. | S. Thennarasu | Respondents |

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the entire records pertaining to the impugned order passed by the first respondent in Na.Ka.22153-2024-L5 dated 26.05.2025 granting free house site patta to the fourth respondent in the Sulai (kiln) Poramboke Grama Natham land situated in Minnaamapalli Village, Namakkal Taluk



and District comprised in Old S.No.201 (Part), New S.No.345/11 and to quash the same and consequently, direct the respondents 1 to 3 to preserve the land in Survey No.345/11 for community purposes to be used by the Kuyavar (Potter) community people.

For petitioners
For RR 1 to 3

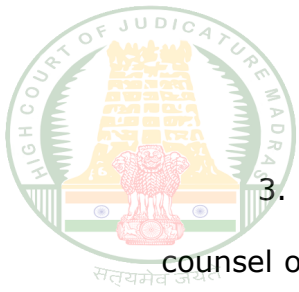
Mr. R. Vivek for Mr. S. Senthil
Mr. T.K. Saravanan
Additional Government Pleader

ORDER

(made by M. SUNDAR, J.)

Subject matter of captioned main 'writ petition' [hereinafter 'WP' for the sake of brevity] is 'land comprised in New Survey No.345/11 (Old Survey No.201 {Part} in Minnaampalli Village, Namakkal Taluk, Namakkal District [hereinafter 'said land' for the sake of convenience and clarity].

2. 'An order dated 26.05.2025 bearing reference Na.Ka.No.22153-2024-L5 made by R1' [hereinafter 'impugned order' for the sake of convenience and clarity] has been assailed as regards the certiorari limb of the prayer. In and *vide* the mandamus limb, a consequential direction to official respondents 1 to 3 to preserve said land for community purposes has been sought. (To be noted, though it has been stated as 'communal purposes' in the prayer, when pointed out, learned counsel fairly admitted that it should read as 'community purposes'). To be further noted, captioned main WP has been filed with a prayer for issue of a writ of certiorarified mandamus.



3. Mr. R. Vivek, learned counsel representing Mr. S. Senthil, learned counsel on record for writ petitioners, submits that the writ petitioners had come to this Court earlier by way of a writ petition being W.P.No.4641 of 2025 with a prayer not to re-classify said land and not to issue any house site patta *qua* said land. This writ petition was disposed of by an Hon'ble Single Bench of this Court *vide* an order dated 17.02.2025 recording the stated position of the learned State counsel that the said land is a Grama natham and it has been classified as Soolai (kiln) Poramboke and that encroacher was evicted from said land. Hon'ble Single Bench concluded that this shows that there is no intention on the part of the State to issue patta in favour of encroacher. (We are informed that this 17.02.2025 order has attained a legal quietus as there is no intra-Court appeal). Prior to the aforereferred writ petition, R4 (private respondent before us) had come to this Court by way of a writ petition being W.P.No.23883 of 2024 assailing an order 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]. Another Hon'ble Division Bench of this Court, in and by an order dated 16.08.2024, noticing that the writ petitioner thereat (R4 before us) resorted to statutory appeal under Section 10 of said 1905 Act, disposed of W.P.No.23883 of 2024 by directing the Appellate Authority (District Collector) to dispose of the appeal on its own merits and in accordance with law within a time frame of 12 weeks.

4. Pursuant to the aforementioned Division Bench order, the impugned order has been made by R1 but contrary to the order of the Hon'ble Single Bench



which has attained a legal quietus. In and *vide* the impugned order, R1 has directed issue of patta *qua* said land. In this view of the matter, the writ petitioners are aggrieved by the impugned order though writ petitioners were not parties to the appeal in which the impugned order came to be made, is learned counsel's say.

5. Issue notice to official respondents.

6. Mr. T.K. Saravanan, learned Additional Government Pleader, accepts notice for all the three official respondents and points out that the writ petitioners have alternative remedy of a statutory revision under Section 10-A of said 1905 Act.

7. From the facts and circumstances of the case, it is clear that there is an alternative remedy *qua* the impugned order. The question is whether the writ petitioners, not being parties to the appeal in which the impugned order has been made, can resort to alternative remedy of revision under Section 10-A of said 1905 Act.

8. We carefully examined the factual matrix of the case at hand. The language in which Section 10-A is couched and the eco-system and architecture of said 1905 Act, lead us to the conclusion that in the case on hand, writ petitioners should be permitted to file a third party revision under Section 10-A seeking revision of the impugned order of R1 and the main reason for this conclusion is,



sub-section (3) of Section 10-A which makes it clear that no decision or order shall be made by the Revisional Authority without giving, any person, reasonable opportunity of making any representation (if he so desires) if the order is going to be prejudicial to such person.

9. This takes us to the limitation for revision which is 30 days from the date on which the order sought to be revised (impugned order in the case on hand) was received by the revision applicant. This is *vide* sub-section (2) of Section 11. In the case on hand, the writ petitioners have received a copy of the impugned order by taking the Right to Information Act (RTI Act) route on 19.06.2025. Captioned main WP has been filed in this Court on 23.06.2025. This means that from today, *i.e.*, 11.07.2025, the writ petitioners have time till 07.08.2025 to file a revision. This computation is made by excluding time spent in the captioned main WP by applying the underpinning principle *qua* Section 14 of the Limitation Act, 1963. Though obvious, we make it clear that it is open to the writ petitioners to file a stay petition under Section 10-B of said 1905 Act along with the revision.

10. In the light of the narrative thus far, this Court is of the considered view that an order which does not impinge upon nay not even impact the rights of of R4 can be made to give a closure to the captioned main WP as we can preserve all the rights and contentions of R4 in the revision if the same is filed. The principle embodied in sub-section (3) of Section 10-A would apply on all fours to R4. This means that an order which is prejudicial to R4 can also not be made by the



Revisional Authority without giving R4 a reasonable opportunity of making any representation. We preserve all the rights and contentions of R4 if the writ petitioners take advantage of this order and file a third party revision. This means that the writ petitioners should array R4 as a party respondent in the revision, notice should be served by the Revisional Authority on R4 and R4 should be afforded a reasonable opportunity of making a representation before the Revisional Authority makes any order in the third party revision. We, therefore, dispense with notice to R4 and take up the captioned main WP in the Admission Board with the consent of learned counsel on both sides.

11. As the writ petitioners have approached this Court within 30 days limitation period for filing revision and as we have made it clear that the writ petitioners have time till 07.08.2025 to file a revision along with stay petition, we make it clear that the impugned order of R1 will be kept in abeyance until the stay petition is decided by the Revisional Authority. Though obvious, we also make it clear in the same breath that if the writ petitioners do not file a stay petition under Section 10-B (or do not file a third party revision at all), the impugned order can be put into motion post 07.08.2025.

12. Before writing the concluding paragraph of this order, we make it clear that we have exercised our writ jurisdiction to permit the petitioners to file a third party revision considering the peculiar facts and circumstances of the case, more particularly, the judicial orders which have been made earlier. Therefore, this order



will not serve as an authority for the proposition that a third party revision under Section 10-A will lie in all and every case. In this limited sense, this order will not serve as a precedent.

Captioned main 'WP' stands disposed of in the aforesaid manner with the aforesaid observations and preservation of rights. In the light of what we have written regarding the impugned order being put into motion, captioned writ miscellaneous petition has become otiose thereat and the same is disposed of as closed. There shall be no order as to costs.

(M.S., J.) (H.C., J.)
11.07.2025

cad
Index : Yes
NC : Yes



WEB COPY

W.P.No.2527:



M. SUNDAR, J.

and

HEMANT CHANDANGOUDAR, J.

cad

To

1. The District Collector
Collectorate
Tiruchengode Road
Namakkal District
2. The District Revenue Officer
Office of the District Revenue Officer
Selected Campus
Thummanguruchi
Namakkal District
3. The Tahsildar
Tahsildar Office
Mohanur Road
Namakkal District

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