



W.P.No.24330 of 2021

45IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 25.06.2025

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THE HONOURABLE MR.JUSTICE **M.SUNDAR**

and

THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

W.P.No.24330 of 2021

K.Mohan

... Petitioner

Vs.

1. The District Collector
Thiruvallur District
Thiruvallur

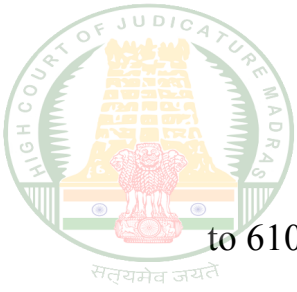
2. The Tahsildar
Thiruvallur Taluk
Thiruvallur District
Thiruvallur

3. The Revenue Inspector
Thiruvallur Taluk
Thiruvallur District
Thiruvallur

... Respondents

Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the impugned notice of the third respondent in his proceedings under Na.Ka.No.159/2020/B3 dated 18.09.2020 and the consequential order passed by the 1st respondent under Na.Ka.No.31060/2020/No.1 dated 03.09.2021 and to set aside the same and directing the first respondent to issue patta for the lands to an extent of 7 acres comprised in Survey No.602

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to 610 in the Village Accounts of Thozhuvur, Thiruvallur Taluk and District.

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For Petitioner : Mr.M.Prabakar

For Respondents : Mr.T.K.Saravanan
Additional Government Pleader

ORDER

[Order of the Court was made by **HEMANT CHANDANGOUDAR.J.**]

1. The captioned writ petition has been filed challenging (i) the notice dated 18.09.2020 issued by the third respondent under Section 7 of The Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905) [hereinafter referred to as “the 1905 Act”], and (ii) the order dated 03.09.2021 passed by the first respondent in exercise of the powers conferred under Section 10 of the said 1905 Act.

2. The petitioner was served with a notice under Section 7 of the 1905 Act by the third respondent, calling upon him to show cause as to why the alleged encroachment upon government land bearing Survey Nos. 602 to 610 situated in Thozhuvur Village, Thiruvallur Taluk and District, should not be removed. Aggrieved by the issuance of the said notice, the petitioner



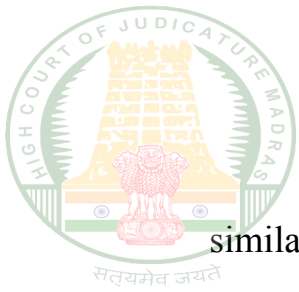
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approached this Court by filing W.P. No. 13905 of 2020. A Division Bench of this Court, by order dated 06.10.2020, disposed of the said writ petition with a direction preserving the petitioner's right to file a statutory appeal under Section 10 of the 1905 Act.

3. Pursuant to the liberty so granted, the petitioner filed an appeal under Section 10 of the 1905 Act before the first respondent. The first respondent, by the impugned order dated 03.09.2021, dismissed the appeal, inter alia holding that the petitioner had encroached upon lands which are classified as "water bed" in the Revenue Records.

4. Heard the learned counsel for the petitioner and Mr. T.K. Saravanan, learned Additional Government Pleader, appearing for the respondents.

5. It is evident that the petitioner, upon receipt of the notice under Section 7 of the 1905 Act, submitted his explanation. Nevertheless, he also pursued the remedy of filing a writ petition before this Court in W.P. No. 13905 of 2020, which was disposed of by granting liberty to pursue a statutory appeal under Section 10 of the 1905 Act. In the said appeal, the petitioner contended that he is entitled to the grant of patta and that other



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similarly situated persons had been granted such patta. The first respondent, however, rejected the petitioner's claim and proceeded to pass the impugned order confirming the notice under Section 7 of the Act.

6. It is pertinent to note that the first respondent, instead of relegating the petitioner to submit a detailed reply to the notice issued under Section 7 of the 1905 Act, proceeded to dispose of the appeal by affirming the notice itself. The principles of natural justice require that the petitioner be given a full and effective opportunity to respond to the allegations in the show-cause notice. The first respondent ought to have directed the petitioner to file a response to the show-cause notice before taking any further action. On this ground alone, the impugned order passed by the first respondent is vitiated and is liable to be set aside.

7. This Court takes judicial notice of the settled position that the 1905 Act is a self-contained code providing a complete mechanism for addressing encroachment issues. While ordinarily, the existence of an alternative remedy would weigh against the exercise of writ jurisdiction, it is equally well established by the Hon'ble Supreme Court that the rule of alternate remedy is one of discretion and not an inflexible rule of law. In the instant



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case, the writ petition is entertained and relief granted solely on the ground that the first respondent failed to provide the petitioner with a reasonable opportunity to respond to the show-cause notice issued under Section 7 of the said 1905 Act, thereby violating principles of natural justice.

8. In light of the foregoing discussion, this Court is inclined to dispose of the writ petition by passing the following directions:

- i. The impugned order dated 03.09.2021 passed by the first respondent in Na.Ka.No.31060/2020/No.1 is hereby set aside. The petitioner is granted liberty to respond to the show-cause notice dated 18.09.2020 issued by the third respondent, within a period of fifteen (15) days from today, i.e., on or before 09.07.2025.
- ii. Upon receipt of the explanation from the petitioner, the second respondent shall consider the same and pass an appropriate reasoned order, in accordance with law, as contemplated under Section 6 of the 1905 Act. This exercise shall be completed within a period of four (4) weeks thereafter, i.e., on or before 06.08.2025.



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iii. In the event the order passed by the second respondent is adverse to the petitioner, such order shall remain in abeyance for a period of two (2) weeks from the date of its communication, in order to enable the petitioner to avail appropriate legal remedies in accordance with law.

9. With the above direction, this writ petition is disposed of. There shall be no order as to costs.

(M.S.,J.) (H.C.,J.)
25.06.2025
(2/2)

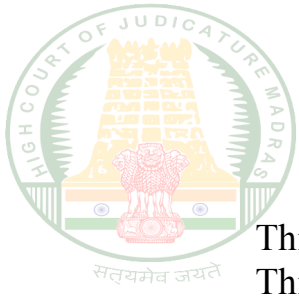
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To

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Thiruvallur District
Thiruvallur

2. The Tahsildar
Thiruvallur Taluk

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

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