



W.P. No.24877 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2025

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

W.P. No.24877 of 2025 and W.M.P. No.28046 of 2025

T. Kumaresan

Petitioner

vs.

1. The District Collector/Appellate Authority
Kallakurichi District
Kallakurichi

2. The Block Development Officer (Va.Vu.)
Chinna Salem Panchayat Union
Chinna Salem, Kallakurichi District

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the 1st respondent to dispose of the stay petition and appeal dated 26.06.2025 filed by the petitioner, within a time frame and consequently, forbearing the 2nd respondent from proceeding further, after the notice dated 09.06.2025, issued under Section 6 of the Tamil Nadu Land Encroachment Act and notice dated 20.06.2025, pending disposal of the appeal dated 26.06.2025.

For petitioner	Dr. C. Ravichandran for Mr. S.B. Viswanathan
For R1	Mr. T.K. Saravanan Additional Government Pleader
For R2	Mr. U. Bharanidharan Special Government Pleader

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ORDER

[made by M.SUNDAR, J.]

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This order will now dispose of the captioned main 'writ petition' [hereinafter 'WP' for the sake of brevity] and 'writ miscellaneous petition' [hereinafter 'WMP' for the sake of brevity] thereat.

2. Instant order has to be read in conjunction with and in continuation of earlier proceedings/order made by this Court in the previous listing on 09.07.2025 which reads as follows:

'IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 09.07.2025

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THE HONOURABLE MR. JUSTICE M. SUNDAR

AND

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W.P.No.24877 of 2025 and W.M.P.No.28046 of 2025

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Chinna Salem Panchayat Union
Chinna Salem
Kallakurichi District

Respondents

For petitioner Dr. S. Ravichandran

for Mr. S.B. Viswanathan

For R1

Mr. K. Suresh, Govt. Advocate

For R2

Mr. T.K. Saravanan, Addl. Govt. Pleader



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ORDER

(made by M. SUNDAR, J.)

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Writ petitioner has preferred a statutory appeal dated 26.06.2025 under Section 10 of 'The Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' [hereinafter 'said 1905 Act' for the sake of brevity]. This statutory appeal is accompanied by a stay petition under Section 10-B of said 1905 Act. In this appeal, writ petitioner has assailed an order captioned 'Kadidha Kurippu' dated 20.06.2025 made by R2 (Block Development Officer) [hereinafter 'said BDO' for the sake of convenience and clarity].

2. The prayer of the writ petitioner is to mandamus R1 to dispose of the aforereferred stay petition.

3. Issue notice to respondents.

4. Mr. K. Suresh, learned Government Advocate, accepts notice for R1 and Mr. T.K. Saravanan, learned Additional Government Pleader, accepts notice for R2.

5. Mr. T.K. Saravanan, learned State counsel, submits, on instructions, that impugned order has been made by R2 under Section 131(2) of 'the Tamil Nadu Panchayats Act, 1994 (Tamil Nadu Act 21 of 1994)' [hereinafter 'said Act' for the sake of convenience and clarity].

6. A careful perusal of Section 131(2) of said Act makes it clear that a notice under this provision can be issued either by 'Executive Authority' or 'Commissioner' both of which are terms of art, the same having been defined *vide* Section 2(11) and 2(6) respectively. These two provisions read as follows:

'2. Definitions.-- In this Act, unless the context otherwise requires;

(1)

(2)

(3)

(4)

(5)

(6) "Commissioner" means the Commissioner of a Panchayat

Union

(7)



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(8)

(9)

(10)

(11) "Executive Authority" means a person notified as such by the Government under Section 83.'

7. Section 2(11) defining the expression 'Executive Authority' takes us to Section 83 which reads as follows:

'83. Executive Authority of Village Panchayat.-- The Government may, by notification, appoint any person, who shall, subject to such rules as may be prescribed, exercise the powers and perform the functions of the Executive Authority of a Village Panchayat'.

8. As regards Section 2(6) which defines the term 'Commissioner', learned State counsel submits that Section 85 captioned 'Commissioner' comes into play and the same reads as follows:

'85. Commissioner.-- (1) A Commissioner shall be appointed by the Government in the case of each Panchayat Union Council. Such Commissioner shall ordinarily be the Development Officer appointed in pursuance of the National Extension Service Scheme of Community Development for the Panchayat Development Block.

(2) No recovery shall be made from the Panchayat Union Council towards the salary and allowances paid to any Commissioner or towards his leave allowances, pension and Provident Fund.

(3) The Government shall have power to regulate the method of recruitment, conditions of service, pay and allowances and discipline and conduct of the Commissioner appointed under sub-section (1).

(4) The Commissioner shall --

(a) have the right to attend the meetings of the Panchayat Union Council or of any Committee thereof and take part in the discussions thereat, but without the right to move any resolution or to vote;



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(b) attend any meeting of the Panchayat Union Council or any Committee thereof if required to do so by the Chairman;

(c) carry into effect the resolutions of the Panchayat Union Council;

(d) furnish to the Panchayat Union Council such periodical reports regarding the progress made in carrying out the resolutions of that body and in the collection of taxes as the council may direct;

(e) control all the officers and servants of the Panchayat Union Council.

(f) perform all the duties specifically imposed and exercise all the powers conferred on the Commissioner by this Act and subject, whenever it is hereinafter expressly so provided, to the sanction of Panchayat Union Council and subject also to all other restrictions, limitations and conditions hereinafter imposed, exercise the executive power for the purpose of carrying out the provisions of this Act and be directly responsible for the due fulfillment of the purposes of this Act.

(5) Notwithstanding anything contained in sub-section (2) of Section 16 and subject to all other provisions of this Act and the rules made thereunder, the Panchayat Union Council shall have power to issue such specific directions as it may think fit regarding the performance by the Commissioner of any of the functions assigned to him under this Act:

Provided that where such directions relate to any National Extension Service Scheme of Community Development or any other scheme specially entrusted by the Government to the Panchayat Union Council, the directions issued by the Council shall be in conformity with the terms and conditions of such entrustment.



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(6) Subject to any directions given or restrictions imposed by the Government or the Panchayat Union Council, the Commissioner may, by an order in writing, delegate any of his functions to any officer or servant of the Panchayat Union Council or to any servant of the Government. The exercise or discharge of any functions so delegated shall be subject to such restrictions, limitations and conditions as may be laid down by the Commissioner and shall also be subject to his control and revision.'

9. The short point is, whether said BDO qualifies either as 'Executive Authority' *vide* Section 2(11) read with Section 83 or as 'Commissioner' *vide* Section 2(6) read with Section 85.

10. Learned State counsel requests for a short accommodation to get instructions on the above and revert to this Court.

11. Request acceded to.

12. List one week hence under the cause list caption 'NOTICE REGARDING ADMISSION' in the Admission Board *i.e.*, Motion List.

13. List on 16.07.2025.

14. The aforereferred impugned order being order dated 20.06.2025 made by said BDO will be kept in abeyance until further orders.

(M.S., J.) (H.C., J.)
09.07.2025'

3. It is made clear that the aforereferred earlier proceedings/order dated 09.07.2025 shall now be read as an integral part and parcel of instant order. This also means that abbreviations, short forms and short references used in the earlier proceedings/order



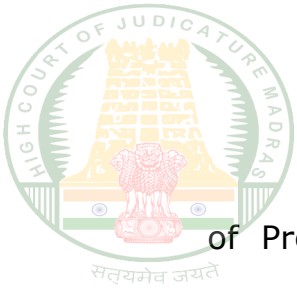
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will continue to be used in instant order as well for the sake of convenience and clarity.

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4. Today, Dr. S. Ravichandran, learned counsel representing Mr. S.B. Viswanathan, learned counsel on record for writ petitioner, Mr.T.K. Saravanan, learned Additional Government Pleader for R1 and Mr.U.Bharanidharan, learned Special Government Pleader for R2 are before us.

5. Adverting to aforementioned earlier proceedings and more particularly paragraphs 9 and 10 thereat, Mr. T.K. Saravanan, learned State counsel, in his usual fairness, submitted that though in **G.Radhakrishnan** case [G. Radhakrishnan vs. The President, Edayakottai Panchayat, Oddanchatiram Taluk, Dindigul District reported in 2008-3-L.W.-548] rendered by another Hon'ble Division Bench on 30.10.2007, it has been held that the President of a village panchayat can issue a notice under Section 131(2) of said Act as he qualifies as 'Executive Authority' within the meaning of Section 2(11) read with Section 83, in the case at hand, he does not press into service **G.Radhakrishnan's** case as R2 (BDO) has not stepped into the shoes



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of President of the village panchayat. As a sequitur, according to learned State counsel, the Kadidha Kurippu signed by R2 on 20.06.2025 is withdrawn, in other words, there is a roll back. This submission is recorded. This has also made the legal drill at hand fairly simple. Therefore, with the consent of learned counsel for writ petitioner and learned State counsel, captioned main WP is taken up for hearing in the Admission Board, *i.e.*, Motion List.

6. As would be evident from the earlier proceedings/order, the writ petitioner has filed a statutory appeal under Section 10 of said 1905 Act along with a stay petition under Section 10-B assailing the Kadidha Kurippu. As the Kadidha Kurippu dated 20.06.2025 (said to have been received by writ petitioner on 25.06.2025) is not appealable under Section 10 of said 1905 Act, the appeal and the stay petition thereat will now stand closed. There is yet another reason for saying that the appeal and the stay petition thereat are closed and that reason is, Kadidha Kurippu which is assailed in the appeal itself is withdrawn.



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7. Be that as it may, we preserve all the rights and contentions of the State to issue notice afresh under appropriate/applicable statute by a competent authority. Axiomatically/conversely, if the State issues such a notice, we preserve all rights and contentions of the writ petitioner (including the contentions raised in the captioned WP) to respond to the same. This further means that the ensuing drill will be one where the writ petitioner's response (if that be so) should be decided on its own merits and in accordance with law untrammelled by instant order. Though obvious, we make it clear that we have not expressed any view or opinion on the merits of alleged encroachment and the denial of the same.

8. Captioned main WP stands disposed of as closed in the aforesaid manner. Consequently, captioned WMP thereat is also disposed of as closed. There shall be no order as to costs.

(M.S., J.) (H.C., J.)
16.07.2025

cad
Index: Yes/No
N.C. : Yes/No

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M.SUNDAR, J.

and

HEMANT CHANDANGOUDAR, J.

cad

To

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Kallakurichi
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Kallakurichi District

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