



W.P. No.26282 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2025

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CORAM:

THE HONOURABLE MR. JUSTICE M.SUNDAR

and

THE HONOURABLE MR. JUSTICE HEMANT CHANDANGOUDAR

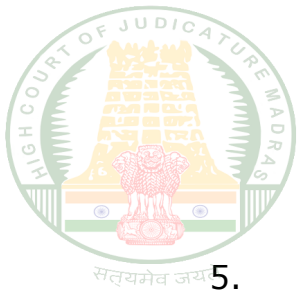
W.P. No.26282 of 2025 and W.M.P.No.29583 of 2025

D. Arockia Sekar

Petitioner

vs.

1. The Commissioner
Villivakkam Panchayat Union
Villivakkam Panchayat Union Office
Ambattur
Chennai 600 053
2. The District Collector
Thiruvallur District
Chinna Ekkadu
Jaya Nagar
Tiruvallur
Tamil Nadu 602 001
3. The District Revenue Officer
Bharathiyar Street
S.P. Nagar
Tiruvallur
Kakkalur
Tamil Nadu 602 003
4. The Block Development Officer
Villivakkam Panchayat Union
Ambattur
Chennai 600 053



W.P. No.26282 of 2025

WEB COPY

5. The Tahsildar
Poonamallee Taluk
No.5, Trunk Road
Ettima Nagar
Poonamallee
Chennai 600 056
6. The President
Adayalampattu Panchayat Union Committee
Villivakkam Panchayat Union
Chennai 600 095
7. V. Balamurugan
8. S. Balasubramaniyan
9. Shanmugam

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the fifth respondent to comply with the proceedings Na.Ka.No.3092/2022/A3 dated 26.03.2025 sent by the first and fourth respondents to remove the encroachment made by the seventh to ninth respondents by constructing Vinayagar temple over the Open Space Reservation (OSR) land at Millennium Town, Adayalampattu Village, Villivakkam Panchayat Union, Thiruvallur District within a time frame.

For petitioner Mr. Vijayan Subramanian

For RR 1, 4 & 6 Mr. V. Ramesh
Govt. Advocate

For RR 2,3 & 5 Mr. T.K. Saravanan
Addl. Govt. Pleader



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W.P. No.26282 of 2025

ORDER

[made by M.SUNDAR, J.]

Subject matter of captioned main 'writ petition' [hereinafter 'WP' for the sake of brevity] is 'lands comprised in Survey Nos.71/2 and 72 in Adayalampattu Panchayat, Villivakkam Panchayat Union, Tiruvallur District' [hereinafter 'said lands' for the sake of convenience and clarity].

2. Writ petitioner has come to this Court complaining of encroachment in said lands which according to him vests in R4 (Block Development Officer, Villivakkam Panchayat Union) and has been set apart for a public purpose *i.e.*, for the purpose of being used as a park.

3. Learned counsel for writ petitioner, adverting to 'a final notice dated 17.10.2024 issued from R1 (Commissioner, Villivakkam Panchayat Union)' [hereinafter 'said notice' for the sake of convenience and clarity], submits that a survey *qua* said land has been conducted, encroachment has been noticed and thereafter, there has been one communication from R4 to R5 (signed by R4 on 26.03.2025) but there is inaction and that has necessitated the captioned main WP.



W.P. No.26282 of 2025

WEB COPY

4. Issue notice to official respondents.

5. Mr. V. Ramesh, learned Government Advocate, accepts notice for RR 1,4 and 6 and Mr. T.K. Saravanan, learned Additional Government Pleader, accepts notice for RR 2,3 and 5.

6. Mr. T.K. Saravanan, learned State counsel, on instructions, submits that said notice is one issued pursuant to earlier notice under Section 131(2) of the Tamil Nadu Panchayats Act, 1994 (Act 21 of 1994) and therefore, commencement of Removal of Encroachment (RoE) proceedings under 'the Tamil Nadu Land Encroachment Act, 1905 (Act III of 1905)' [hereinafter 'said 1905 Act' for the sake of convenience and clarity] is in the anvil. This submission is recorded.

7. In the light of the narrative thus far, we find that captioned main WP stands vastly descoped and therefore, with the consent of learned counsel for writ petitioner and learned State counsel, captioned main WP was taken up, dispensing with notice to private respondents (RR 7 to 9). This Court makes it clear that notice to



W.P. No.26282 of 2025

private respondents is dispensed with as this order will not impact or touch upon the rights of private respondents in any manner, on the contrary, all the rights and contentions of private respondents will stand preserved when they are show caused *vide* proceedings under said 1905 Act.

8. We have noticed that writ petitioner came to this Court earlier by way of a writ petition being W.P.No.20766 of 2025 and the same came to be disposed of by this very Bench in and by an order dated 12.06.2025 wherein earlier proceedings *vide* a suit in O.S.No.45 of 2023 on the file of the District Munsif Court, Poonamallee and another earlier order dated 18.10.2023 in another writ petition being W.P.No.30118 of 2023 made by another Hon'ble Division Bench, have been captured.

9. This order has to be read as an integral part and parcel of earlier orders.

10. Learned State counsel submits that notices under Section 7 of said 1905 Act would be issued to alleged encroachers as

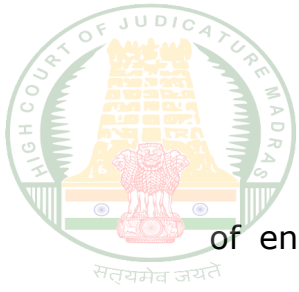


W.P. No.26282 of 2025

expeditiously as the business of official respondents would permit but in any event within a fortnight from today *i.e.*, on or before 05.08.2025. On notices being issued, let proceedings under said 1905 Act continue and be concluded on its own merits and in accordance with law.

11. In this regard, before proceeding further, it is deemed appropriate to write that this Court, in C.Gopinathan case reported in 2025:MHC:1162 (order dated 29.04.2025 in W.P.Nos.8355 and 8357 of 2022 and W.M.P. Nos.8324 and 8237 of 2022 thereat), respectfully following Girnar principle, *i.e.*, declaration of law made by a Constitution Bench of the Hon'ble Supreme Court in Girnar Traders (3) vs. State of Maharashtra reported in (2011) 3 SCC 1, held that said 1905 Act is a self-contained Code. Girnar principle is that if a statute provides for a complete machinery to deal with the purpose sought to be achieved by that law and its dependence on other legislations is either absent or minimal, such a statute is a self- contained Code.

12. The eco-system of said 1905 Act, *i.e.*, the purpose sought to be achieved by said 1905 Act is to lay down a procedure for eviction



W.P. No.26282 of 2025

of encroachment of lands belonging to the Government. As regards said 1905 Act, *inter alia*, there is a provision to have the alleged encroacher show caused under Section 7 of said 1905 Act followed by an order under section 6 (considering the cause shown). The order under Section 6 is appealable. Section 10 is the appeal provision and *inter alia* District Collector is the appellate authority and there is a provision for further revision to the Government under Section 10-A of said 1905 Act. Pending appeal / revision, there is a provision for making interim prayer *vide* Section 10-B of said 1905 Act. This order of Revisional Authority is obviously subject to judicial review. This is the legal architecture of the machinery put in place to deal with the purpose sought to be achieved by said 1905 Act. Such a three-tier machinery has been put in place to check unauthorised occupation of lands which are the properties of the Government (besides imposition of penal or prohibitory assessment or charge), after giving adequate and ample opportunity to a person who is alleged to be in occupation of public roads, streets, lanes and paths, bridges, ditches, dikes and fences, rivers, streams, nalas, lakes, tanks and such other properties of Government.



W.P. No.26282 of 2025

WEB COPY

13. The purpose sought to be achieved by said 1905 Act and the architecture of the machinery put in place to achieve the same, when tested on the touchstone of Girnar principle, leaves us with the view that said 1905 Act is a self-contained Code which provides for complete machinery to deal with the purpose sought to be achieved with no dependence on other legislations or at the highest minimal dependence on other legislations. Suffice to say that said 1905 Act is clearly a self-contained Code.

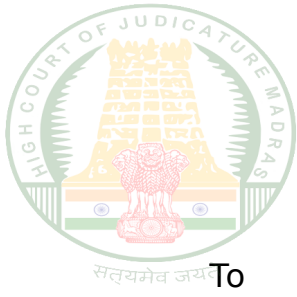
14. This Court is of the considered view that recording the stated position of learned State counsel will suffice to give a closure to the captioned main WP. We do so.

15. Captioned main WP is disposed of recording the stated position of the learned State counsel. Consequently, captioned writ miscellaneous petition thereat is disposed of as closed. There shall be no order as to costs.

(M.S., J.) (H.C., J.)
21.07.2025

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

Page Nos.8/10



W.P. No.26282 of 2025

WEB COPY

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WEB COPY



W.P. No.26282 of 2025

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W.P.No.26282 of 2025

21.07.2025

Page Nos.10/10