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W.P.No.23723 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2025

CORAM

THE HONOURABLE Mr. JUSTICE M.SUNDAR
AND
THE HONOURABLE Mr. JUSTICE T. VINOD KUMAR

W.P.No.23723 of 2024
AND
W.M.P.No.25960 of 2024

Singaravelu

.. Petitioner

Vs.

The Tahsildar
Thiruthuraipoondi Taluk
Thiruvarur District 614 713

.. Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issue of a writ of certiorari calling for the entire records relating to the impugned notice dated 06.08.2024 issued by the respondent herein in Na.Ka. 4429/2024/Aa4 under Section 7 of the Tamil Nadu Land Encroachment Act, 1905, pertaining to the petitioner's land comprised in S.No.244/5B, measuring an extent of 0.03.02 hectare, situated in Thivammapuram Village, Thiruthooraiipoondi Taluk and Thiruvarur District and to quash the same.

For petitioner : Mr.D.Vairamoorthy

For respondent : Mr.T.K.Saravanan, Addl. Govt. Pleader

ORDER

(made by M.SUNDAR, J.)

Captioned main 'writ petition' [hereinafter 'WP' for the sake of brevity]

has been filed with a prayer seeking issue of a writ of certiorari, assailing



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WEB COPY 'a notice dated 06.08.2024 bearing reference Na.Ka.4429/2024/Aa4, being notice issued by the lone respondent' [hereinafter 'impugned notice' for the sake of convenience and clarity].

2. Notwithstanding myriad grounds raised in the writ affidavit, learned counsel for writ petitioner predicates his campaign against the impugned notice, on the sole ground that the land which is the subject matter of impugned notice is 'natham land' and writ petitioner has been favoured with a patta.

3. However, Mr. T.K. Saravanan, learned Additional Government Pleader for respondent submits to the contrary and learned State Counsel submits that the land which is the subject matter of impugned notice is a 'public land' within the meaning of Section 2 of 'The Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' [hereinafter 'said 1905 Act' for the sake of brevity].

4. In the light of the narrative thus far, we are not inclined to accede to the prayer for issue of a writ of certiorari and dislodge the impugned order. The reasons are as follows :

- i. The impugned notice is only a show cause notice as said



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1905 Act makes it statutorily imperative to have the alleged encroacher show caused before an order under Section 6 is made; and

- ii. Challenge to a show cause notice in writ jurisdiction is very limited and the lone point urged by the learned counsel for writ petitioner turns heavily on facts, more so in the light of contrary submissions being made by other side.

Therefore, we are of the view that the writ petitioner should raise the points canvassed before this Court by way of a response to the impugned notice.

5. Considering the pendency of the captioned WP and an interim order granted on 13.08.2024, we deem it appropriate to make the following order:

- a) Impugned notice is neither dislodged nor sustained on merits but it is made clear that the proceedings pursuant to impugned notice will follow;
- b) The writ petitioner can respond to the impugned notice within a fortnight (two weeks) from the date of uploading of the instant order in the official website of this Court;
- c) If the writ petitioner responds, all questions are left open and it is open to the writ petitioner to raise all points



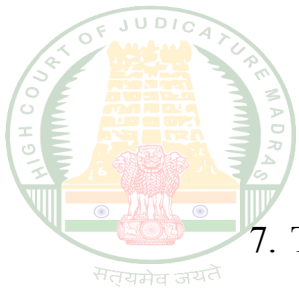
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including points raised in the captioned WP;

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- d) If the writ petitioner responds in the aforesaid manner, the sole respondent shall consider the response of the writ petitioner before making any order under Section 6; and
- e) If the order under Section 6 accepts the writ petitioner's explanation and it favours the writ petitioner, it will be curtains on the matter. If that not be so, further proceedings by way of appeal under Section 10, revision under Section 10-A of said 1905 Act will follow depending on party concerned opting to resort to such provisions.

6. In this regard, we deem it appropriate to make it clear 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.



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7. Though obvious, for the sake of specificity, we make it clear that we have not expressed any view or opinion on the merits of the matter, one way or the other, so that the respondent can consider the matter untrammelled by the instant order.

8. If the writ petitioner does not send a reply to the impugned notice within a fortnight from the date of uploading of the instant order, further proceedings under said 1905 Act will follow in accordance with the statute. We also make it clear that coercive action, if any and if that be so, will be subject to and depending on order under Section 6 and further proceedings under said 1905 Act. This means that the captioned WMP has become otiose.

9. Captioned main WP stands disposed of in the aforesaid manner. Captioned WMP is disposed of as closed as the same having become otiose. There shall be no order as to costs.

(M.S., J.) (T.V.K., J.)
07.08.2025
(2/2)

Index : Yes/No
Neutral Citation : Yes/No
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AND
T. VINOD KUMAR, J.
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To
The Tahsildar
Thiruthuraipoondi Taluk
Thiruvarur District 614 713

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