



W.P.Nos.26021, 26023 & 26026 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 18.07.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

W.P.Nos.26021, 26023 & 26026 of 2022
and
W.M.P.Nos.25112, 25115 & 25116 of 2022

A.Baskaran
S/o.Appavu

... Petitioner
in W.P.No.26021/2022

A.Radhakrishnan
S/o.Appavu

... Petitioner
in W.P.No.26023/2022

A.Selvaraj
S/o.Appavu

... Petitioner
in W.P.No.26026/2022

VS.

1. The Revenue Tahsildar
Kurinjipadi
Kurinjipadi Taluk
Cuddalore District.
2. The Tahsildar (Natham)
Kurinjipadi, Kurinjipadi Taluk

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Cuddalore District.

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3. The Revenue Inspector
Kullanchavadi, Kurinjipadi Taluk
Cuddalore District.
4. The Village Administrative Officer
Theerthanagiri, Kurinjipadi Taluk
Cuddalore District.

... Respondents

Writ Petition No.26021 of 2022 filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, to call for the records and quash the proceedings of 1st respondent dated 02.08.2022 followed by proceedings of the 1st respondent dated 07.09.2022 and consequently, forbearing the respondents from interfering with the petitioner's enjoyment of property bearing Natham S.No.179/1E 0.09.50 ares in Theerthanagiri Village, Kurinjipadi Taluk, Cuddalore District except by following due process of law.

Writ Petition No.26023 of 2022 filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, to call for the records and quash the proceedings of 1st respondent dated 02.08.2022 followed by proceedings of the 1st respondent dated 07.09.2022 and consequently, forbearing the respondents from interfering with the petitioner's enjoyment of property bearing Natham S.No.179/1A 0.08.0 ares in Theerthanagiri Village, Kurinjipadi Taluk, Cuddalore District except by following due process of law.



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Writ Petition No.26026 of 2022 filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, to call for the records and quash the proceedings of 1st respondent dated 02.08.2022 followed by proceedings of the 1st respondent dated 07.09.2022 and consequently, forbearing the respondents from interfering with the petitioner's enjoyment of property bearing Natham S.No.179/1A 0.10.0 ares and Natham S.No.179/1F 0.16.0 ares in Theerthanagiri Village, Kurinjipadi Taluk, Cuddalore District except by following due process of law.

For Petitioner in all WPs : Mr.D.Baskar

For Respondents in all WPs : Mr.T.K.Saravanan
Additional Government Pleader

COMMON ORDER

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

The captioned three Writ Petitions (hereinafter referred to as ‘WPs’ for the sake of brevity, convenience, and clarity) have been filed challenging the notices dated 02.08.2022 issued by the first respondent under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905) (hereinafter referred to as the “said 1905 Act” for brevity), as well as



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the orders dated 07.09.2022 issued under Section 6 of the said 1905 Act, whereby the petitioners were directed to remove the encroachments in the lands bearing S. No. 179/1, situated in Teerthanagiri Village, Kurinjipadi Taluk, Koodalur District.

2. Against the orders passed under Section 6 of the said 1905 Act, an effective and efficacious alternative remedy of appeal is available under Section 10 of the said Act. However, without availing this statutory remedy, the petitioners have directly approached this Court by filing the captioned Writ Petitions, which, in view of the availability of an alternative remedy, are not entertainable.

3. 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

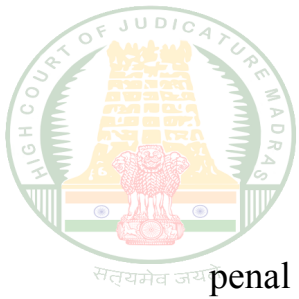


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deal with the purpose sought to be achieved by that law and its dependence on other legislations is either absent or minimal, such a statute is a self contained Code.

4. The ecosystem of said 1905 Act, i.e., the purpose sought to be achieved by said 1905 Act is to lay down procedure for eviction 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



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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.

5. 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.

6. In the light of the narrative thus far, it is clear that the writ petitioners have an effective and efficacious remedy vide Section 10 of said 1905 Act. To be noted, Section 10 of said 1905 Act provides for Statutory appeal. There is also a provision to seek for stay vide Section 10-B of said 1905 Act. It is further to be noted that there is a provision for further revision to the Government vide Section 10-A and Section 10-B can be invoked for seeking stay pending revision.



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7. The impugned orders are dated 07.09.2022 and the captioned WPs have been filed on 20.09.2022, which is well within the statutory period of 30 days as provided under Section 11(1) of said 1905 Act.

8. The captioned WPs stand disposed of with preservation of rights to the writ petitioners to file appeals under Section 10 of said 1905 Act within 17 days from the date on which the instant order is uploaded. If such appeals are filed along with stay petitions under Section 10-B of said 1905 Act, the Appellate Authority shall consider the same on its own merits and in accordance with law, within four weeks from the date of filing of appeals. Any coercive action, if any, shall be subject to outcome of the stay petitions filed under Section 10-B of said 1905 Act. All the rights and contentions of the petitioners in this regard stand preserved. In the event the writ petitioners do not file appeals within 17 days from today, the State is at liberty to give effect to the impugned order/s in accordance with law. Consequently, connected Writ Miscellaneous Petitions are closed. There shall be no order as to costs.



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(M.S.J.) (H.C.J.)
18.07.2025

Index : Yes / No

Neutral Citation : Yes / No

Speaking / Non-speaking

mk

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

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