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W.P.No.30080 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2025

CORAM

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

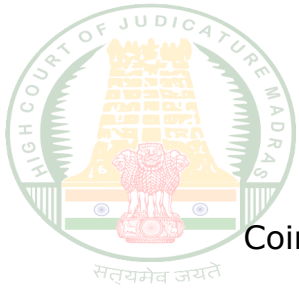
W.P.No.30080 of 2025
and
W.M.P. No.33717 of 2025 in W.P. No.30080 of 2025

M/s.Kavya Garden Karamadai Resident
Welfare Association rep. By its President
Mr.M.Velusamy,
Office at Kemmarampalayam Village,
Mettupalayam Taluk, Coimbatore District.

... Petitioner

Vs.

- 1.The District Collector,
Coimbatore District Collector Office,
Coimbatore.
- 2.The Thasildar,
Thasildar Office,
Mettupalayam Taluk,
Coimbatore District.
- 3.The Revenue Inspector,
Karamadai,
Mettupalayam Taluk,
Coimbatore District.
- 4.The Village Administrative Officer,
Kemmarampalayam Panchayat,
Mettupalayam Taluk,



Coimbatore District.



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... Respondents

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Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorari to call for the records pertaining to the show cause notice of the second respondent under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905) dated 14.05.2025 and quash the same.

For Petitioner : Mr.S.Siva Shanmugam
for Mr.K.Gangadaran

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

ORDER

[Order of the Court was 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 a 'notice/order signed by R2 (Tahsildar, Mettupalayam Taluk, Coimbatore District) on 14.05.2025' (hereinafter 'impugned order' for the sake of brevity, convenience and clarity).

2. Impugned order as is evident from a reading of the same has been made by R2 under Section 6 of 'The Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' {hereinafter



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'said 1905 Act' for the sake of brevity}.

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3. Notwithstanding the myriad grounds in the writ affidavit, Mr.S.Siva Shanmugam, learned counsel representing Mr.K.Gangadaran, learned counsel on record for writ petitioner predicated his campaign against the impugned order on two points and they are as follows:

(i) One Ms.A.Uma Rani, wife of Mr.A.Jayakumar had earlier filed a writ petition in W.P.No.11048 of 2024 with a RoE (Removal of Encroachment) prayer qua 'Survey No.246/C situate at Kemmarampalayam Village, Mettupalayam Taluk, Coimbatore District' (hereinafter 'said other land' for the sake of convenience and clarity). This writ petition came to be disposed of by a Hon'ble Division Bench to which one of us (M.Sundar, J) was a party inter-alia directing a joint survey to be held but writ petitioner was visited with a notice under Section 7 of said 1905 Act (notice signed on 15.04.2025) by R3 (jurisdictional Revenue Inspector) without resorting to joint survey. In other



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words, impugned order is not a product of joint survey
is learned counsel's say; and

(ii) In response to the aforereferred show cause notice under Section 7 of said 1905 Act, writ petitioner has sent a detailed response dated 20.05.2025 but the impugned order has been made by R2 without adverting to writ petitioner's response dated 20.05.2025.

4. After perusing the case file and carefully considering the two points on which learned counsel for writ petitioner predicated his campaign against the impugned order, this Court is of the considered view that captioned WP does not pass muster in the Admission Board, it fails and it deserves to be dismissed. The reasons are as follows:

4.1 For the State to commence action under said 1905 Act, a judicial order is not imperative. Therefore, the point that there was no joint survey as per the judicial order dated 19.03.2025 in W.P.No.11048 of 2024 pales



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into insignificance and does not find favour with us;

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4.2 In any event, judicial order dated 19.03.2025 in W.P.No.11048 of 2024, which is a writ petition with RoE (Removal of Encroachment) prayer pertains to Survey No.246/C but impugned order pertains to Survey No.245, which is a different survey number. To be noted, the impugned order was preceded by Section 7 Show Cause Notice (SCN) as alluded to supra and the Section 7 SCN also pertains to Survey No.245;

4.3 The next point is that the impugned order has been made by R2 without considering the writ petitioner's response dated 20.05.2025 being response to Section 7 notice issued by R3 dated 15.04.2025 does not find favour with us as the impugned order is an appealable order and it is always open to the writ petitioner to raise this point in a statutory appeal under Section 10 of said 1905 Act;

4.4 To be noted, R1 is the Appellate Authority qua



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statutory appeal under Section 10 of said 1905 Act;

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4.5 This Court by respectfully following **Girnar** principle qua law declared by Constitution Bench of Hon'ble Supreme Court in **Girnar Traders (3) vs. State of Maharashtra** reported in **(2011) 3 SCC 1**), has repeatedly held that said 1905 Act is a self contained Code. To be noted, **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;

4.6 Said 1905 Act being a self contained Code which provides for an appeal against the impugned order and thereafter there is a provision for revision under Section 10-A of said 1905 Act. Pending appeal and revision, it is open to the appellant/revision petitioner to seek interim stay vide Section 10-B of said 1905 Act;

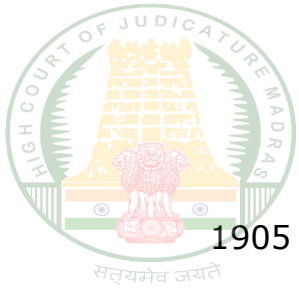


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4.7 The above means that the captioned WP does not pass muster on the alternate remedy point itself. This Court is acutely conscious that the alternate remedy rule is not an absolute rule and it is a rule of discretion. In this view of the matter, considering the facts and circumstances of the case, nature of the matter and the points urged, this Court is of the considered view that this is a fit case to relegate the writ petitioner to the alternate remedy of a statutory appeal under Section 10 of said 1905 Act qua impugned order. To be noted, statutory appeal under Section 10 of said 1905 Act lies to R1/District Collector, Coimbatore (to put it differently, R1 is the Appellate Authority).

5. As already alluded to supra, captioned WP does not pass muster in the Admission Board. Be that as it may, if the writ petitioner chooses to avail alternate remedy (subject to limitation) vide sub-section (1) of Section 11 of said 1905 Act and CoD (Condonation of Delay) if that be so, we make it clear that it is open to R1/Appellate Authority to consider the statutory appeal under Section 10 of said



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1905 Act on its own merits and in accordance with law untrammelled by the instant order. It is open to the writ petitioner to seek interim stay under Section 10-B of said 1905 Act.

6. In the light of the narrative, discussion and dispositive reasoning thus far, captioned WP is dismissed *albeit* with preservation of rights of writ petitioner qua alternate remedy in the aforesaid manner. Consequently, captioned Writ Miscellaneous Petition (WMP) thereat also perishes with the captioned WP and the same is also dismissed. There shall be no order as to costs.

(M.S.,J.) (H.C.,J.)
12.08.2025

Index : Yes / No
Neutral Citation : Yes / No
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To

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Coimbatore District Collector Office,
Coimbatore.
- 2.The Thasildar,
Thasildar Office,
Mettupalayam Taluk,
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3.The Revenue Inspector,
Karamadai,
Mettupalayam Taluk,
Coimbatore District.

4.The Village Administrative Officer,
Kemmarampalayam Panchayat,
Mettupalayam Taluk,
Coimbatore District.

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

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