



WEB COPY



W.P.No.28410 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.28410 of 2024

AND

W.M.P.No.30975 of 2024

Suganthi

.. Petitioner

Vs.

1.The District Collector
Cuddalore District
Cuddalore

2.The Tahsildar
Thittakudi Taluk
Cuddalore District

3.N.Babu

.. Respondents

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 order dated 20.09.2024 made in Na.Ka.Aa.2/590/2024 on the file of the second respondent herein and quash the same.



WEB COPY



W.P.No.28410 of 2024

For petitioner	: Mr.C.Munusamy
For RR1 & 2	: Mr.T.K.Saravanan Additional Government Pleader
For R3	: Mr.J.Agni Selvaraju

ORDER

(made by M.SUNDAR, J.)

Captioned main 'writ petition' [hereinafter 'WP' for the sake of brevity] has been filed with a prayer for issue of a writ of certiorari, assailing 'the order signed by second respondent (Tahsildar) on 20.09.2024 bearing reference Na.Ka.Aa.2/590/2024' [hereinafter 'impugned order' for the sake of convenience and clarity].

2. In and *vide* the impugned order which has been sent to seven individuals including the writ petitioner, who figures as addressee no.4, second respondent has put the writ petitioner and other addressees on notice that alleged encroachment in 'Survey No.210/2 in Pennadam Village, Thittakudi Taluk, Cuddalore District' [hereinafter 'said land' for the sake of convenience and clarity] will be removed on 24.09.2024, pursuant to an order made by another Hon'ble Division Bench of this Court in W.P.No.6487 of 2024 (wrongly mentioned as W.P. No.8487 of 2024 in the impugned order).



W.P.No.28410 of 2024

WEB COP 3. Mr.C.Munusamy, learned counsel on record for writ petitioner who is before us on the VC (video conferencing) platform, adverting to the impugned order, submits that the writ petitioner was visited with a notice dated 12.09.2024. This being a notice under Section 7 of 'The Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' [hereinafter 'said 1905 Act' for the sake of brevity], the writ petitioner responded to the same *vide* response dated 20.09.2024 but without passing orders under Section 6 of said 1905 Act, impugned order has been made, is learned counsel's further say.

4. Mr.Agni Selvaraj, learned counsel for third respondent (private respondent) submits that the third respondent is the informant and writ petitioner is an encroacher *qua* 'said land' but we refrain from expressing any view or opinion on this submission, as learned State Counsel submits that impugned order will now be withdrawn and second respondent will now make an order under Section 6 of said 1905 Act, pursuant to aforesaid Section 7 notice dated 12.09.2024 and writ petitioner's reply dated 20.09.2024. Learned State Counsel also submits that there are nine encroachers in all, including the writ petitioner and in all matters, Section 6 orders will be passed.



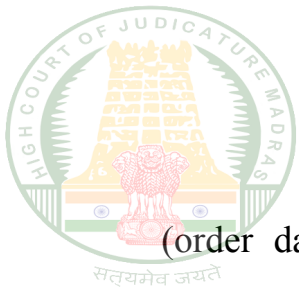
W.P.No.28410 of 2024

WEB COP 5. Coercive action, if any and if that be so, can only be subject to

Section 6 orders and that too, if those orders are adverse to the addressees. This again will be with a caveat that it will be subject to the rights of the persons concerned *vide* appeal under Section 10 of said 1905 Act and revision under Section 10-A. We preserve all the rights and contentions of the writ petitioner as well as other addressees *qua* impugned order which now stands withdrawn.

6. We record the stated position of the learned State Counsel that order under Section 6 of said 1905 Act will be made by second respondent as expeditiously as the business of second respondent permits but in any event within a period of four weeks from today *i.e.*, on or before 03.09.2025. The order so made by second respondent shall be duly communicated under due acknowledgment to all the addressees, including the writ petitioner as well as third respondent. If the order to be made under Section 6 is in favour of writ petitioner, it will be curtains on the matter. If that is not so, as alluded to *supra*, statutory appeal will follow under Section 10 of said 1905 Act.

7. In this regard, before proceeding further, it is deemed appropriate to write that this Court, in **C.Gopinathan** case reported in **2025:MHC:1162**



W.P.No.28410 of 2024

(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.

8. 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 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



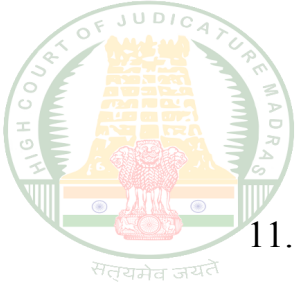
W.P.No.28410 of 2024

WEB

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.

9. 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.

10. Axiomatically, we also make it clear that rights and contentions of third respondent (private respondent), if any, will stand preserved.



W.P.No.28410 of 2024

11. Captioned WP stands disposed of in the aforesaid manner. In the

light of what we have written supra with regard to coercive action, captioned

WMP has become otiose and the same is disposed of as closed. There shall be no order as to costs.

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

Index : Yes/No

Neutral Citation : Yes/No

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To

1.The District Collector
Cuddalore District
Cuddalore

2.The Tahsildar
Thittakudi Taluk
Cuddalore District



WEB COPY



W.P.No.28410 of 2024

M.SUNDAR, J.
AND
T. VINOD KUMAR, J.
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W.P.No.28410 of 2024

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