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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.08.2025

CORAM:

THE HONOURABLE MR. JUSTICE M. SUNDAR

AND

THE HONOURABLE MR. JUSTICE HEMANT CHANDANGOUDAR

W.P.No.30904 of 2025 and W.M.P. No.34604 of 2025

S. Kandasamy

Petitioner

vs.

The Revenue Inspector
Arachalur Firka
Arachalur
Modakkurichi Taluk
Erode District

Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari calling for the entire records relating to the impugned notice issued by the respondent dated 14.07.2025 and quash the same.

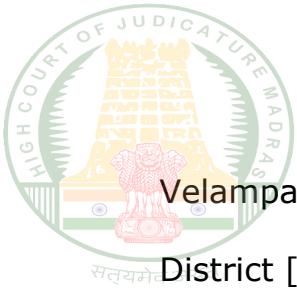
For petitioner Mr. C. Prakasam

For respondent Mr. K. Suresh
Government Advocate

ORDER

(made by M. SUNDAR, J.)

Subject matter of captioned main 'writ petition' [hereinafter 'WP' for the sake of brevity] is land comprised in 'Survey No.487/20 in



Velampalayam A Village, Arachalur Sub Taluk, Modakurichi Taluk, Erode District [hereinafter 'said land' for the sake of convenience and clarity].

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2. Mr. C. Prakasam, learned counsel on record for writ petitioner is before us.

3. Earlier, one P. Paramasivam came to this Court by way of W.P.No.14473 of 2025 alleging encroachment in said land and seeking 'Removal of Encroachment' (RoE). This writ petition was disposed of by a Division Bench of this Court to which one of us (M. SUNDAR, J.) was a member in and by order dated 24.04.2025 relegating the matter to the District Monitoring Committee *vide* G.O. Ms.No.64, Revenue and Disaster Management Department, Land Disposal Wing dated 08.02.2022.

4. Adverting to the earlier order, learned counsel for writ petitioner submits that pursuant to earlier order, proceedings before the District Monitoring Committee was kickstarted, writ petitioner (S.Kandasamy, son of Subbaraya Gounder, who is sixth respondent in the earlier writ petition) participated in the District Monitoring Committee proceedings, 12 weeks' time frame fixed by this Court in the 24.04.2025 order for the District Monitoring Committee to come to a conclusion elapsed on 17.07.2025 but



writ petitioner not having been favoured with a copy of the report of the District Monitoring Committee, has been visited with a notice under Section 7 of 'the Tamil Nadu Land Encroachment Act, 1905 (Act III of 1905)' [hereinafter 'said 1905 Act' for the sake of convenience and clarity] issued by the sole respondent being notice dated 14.07.2025. (This notice shall hereinafter be referred to as 'impugned notice'). In the light of District Monitoring Committee report being awaited, the impugned notice is bad in law, is learned counsel's say.

5. Issue notice to sole respondent.

6. Mr. K. Suresh, learned Government Advocate, accepts notice for sole respondent and very fairly submits that the report of the District Monitoring Committee will be furnished to the writ petitioner within a fortnight from today, *i.e.*, on or before 03.09.2025. Let the same be done by State under due acknowledgment from writ petitioner.

7. It is open to the writ petitioner to respond to the impugned notice within a fortnight thereafter, *i.e.*, on or before 17.09.2025 *i.e.*, after having the benefit of the report of the District Monitoring Committee. On writ petitioner so responding to the impugned notice, orders under Section 6



of said 1905 Act shall be made and further proceedings, if any, shall proceed on merits and in accordance with law. To be noted, 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**, another Hon'ble Division Bench of this Court in which one of us (M. SUNDAR, J.) was a member, has held that said 1905 Act is a self-contained Code.

8. Be that as it may, learned counsel for writ petitioner points out that even according to the impugned notice, alleged encroachment is only one coconut tree. In this view of the matter, subject, of course, to the findings of the District Monitoring Committee, it is open to the State to take an appropriate view, if there is a possibility of saving the tree and also the way.

9. A copy of the report of the District Monitoring Committee shall be furnished to the writ petitioner in the earlier writ petition, *viz.*, P. Paramasivam too. It is made clear that this order will not impact the rights and contentions of P. Paramasivam, writ petitioner in the earlier writ petition



in any way and on the contrary, all his rights and contentions will remain preserved.

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10. We also make it clear that if there are encroachments other than one coconut tree or if there are any further encroachments, it is open to the State to initiate further action. Coercive action, if any and if that be so, will be subject to orders to be made under Section 6 of said 1905 Act.

11. Captioned WP is disposed of in the aforesaid manner. In the light of what we have written as regards coercive action, captioned writ miscellaneous petition has become otiose. Therefore, the same is also disposed of as closed. There shall be no order as to costs.

(M.S., J.) (H.C., J.)
20.08.2025

cad
Index : Yes/No
NC : Yes/No



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W.P.No.30904



M. SUNDAR, J.

and

HEMANT CHANDANGOUDAR, J.

cad

To

The Revenue Inspector
Arachalur Firka
Arachalur
Modakkurichi Taluk
Erode District

W.P.No.30904 of 2025

20.08.2025