



W.P.No.30354 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.07.2025

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THE HONOURABLE Mr. JUSTICE M.SUNDAR
AND
THE HONOURABLE Mr. JUSTICE HEMANT CHANDANGOUDAR

W.P.No.30354 of 2024
AND
W.M.P.No.33059 of 2024

1.Madeshwari
2.Manjula
3.Salappan
4.Chandiran
5.Manju
6.Elumalai
7.Subha
8.Vijaya
9.Sambhath
10.Vijayakumar
11.Sasirekha

.. Petitioners

Vs.

1.State of Tamil Nadu
Rep. by its Principal Secretary to Government
Revenue and Disaster Management Department
Fort St. George, Secretariat, Chennai 600 009

2.The District Collector
Kancheepuram District
Kancheepuram

3.The Tahsildar
Sriperumbudur Taluk
Sriperumbudur
Kancheepuram District



W.P.No.30354 of 2024

4.The Revenue Inspector
Sriperumbudur Firka
Sriperumbudur
Sriperumbudur Taluk
Kancheepuram District

5.The Village Administrative officer
Sriperumbudur Revenue Village
Sriperumbudur
Sriperumbudur Taluk
Kancheepuram District

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issue of a writ of mandamus forbearing the respondents 2 to 5 from interfering with the peaceful possession and enjoyment of petitioners' respective house site plot Nos.33, 35, 63, 64, 65, 66, 74, 76, 105, 106, 116 and 01 respectively, in S.No.1166/2, to an extent of 847 to 900 sq.ft., situated at Sriperumbudur Village, Sriperumbudur Taluk, Kancheepuram District without following due process of law, and consequently direct the respondents 2 and 3 to consider the representation of petitioners dated 22.07.2024 and 30.07.2024.

For petitioner : Mr.M.R.Jothimanian

For respondents : 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 lands comprised in 'Survey No.1166/2 in Sriperumbudur Village, Sriperumbudur Taluk, Kancheepuram District' (hereinafter 'said lands' for the sake of brevity, convenience and clarity).

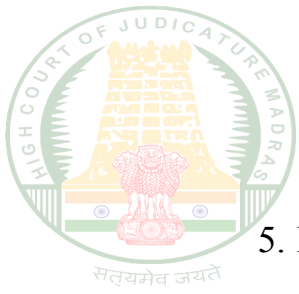


W.P.No.30354 of 2024

WEB COPY 2. Mr.M.R.Jothimanian, learned counsel for the 11 writ petitioners, submits that said lands have been divided into house site plots and the 11 writ petitioners have purchased 12 plots viz., plot Nos.33, 35, 63, 64, 65, 66, 74, 76, 105, 106, 116 and 01 from private individuals. To be noted, one of the writ petitioners has purchased two plots. The writ petitioners have been visited with notices 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], they are under pain of dispossession/demolition and that has necessitated the captioned main WP is learned counsel's further say.

3. Learned counsel also points out that writ petitioners have sent two representations, one dated 22.07.2024 and another dated 30.07.2024, post Section 7 notice.

4. Mr.T.K.Saravanan, learned Additional Government Pleader appearing for the respondents submits, on instructions, that the writ petitioners' vendors were favoured with free house site pattas after acquiring said lands for use of Backward Classes Welfare Department.



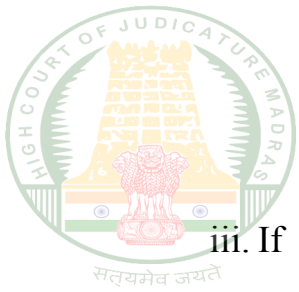
W.P.No.30354 of 2024

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5. Learned State Counsel further submits that the pattas were issued with conditions that houses have to be built within six months and that there should be no alienation for 30 years but there was breach resulting in cancellation of pattas and issue of pattas in favour of other eligible aspirants. We refrain from expressing any opinion or view on this submission in this order and we leave open this aspect as we would be relegating the writ petitioners to alternative remedy the quasi judicial legal drill under the said 1905 Act, which has been repeatedly held to be a self-contained Code by this Court.

6. The notices which the writ petitioners have been visited with are in the nature of show cause notices and therefore in the light of the discussion thus far, the following common order is made:

- i. Writ petitioners shall respond to the notice under Section 7 of said 1905 Act within a fortnight from today *i.e.*, on or before 16.07.2025 (if so advised and so desired);
- ii. Thereafter, the competent revenue authorities shall consider the writ petitioners' response along with aforesaid 22.07.2024 and 30.07.2024 representations on their own merits and in accordance with law untrammelled by this order and make orders under Section 6 of said 1905 Act;



W.P.No.30354 of 2024

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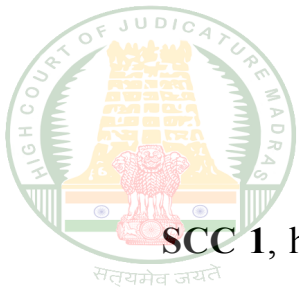
iii. If Section 6 orders under said 1905 Act are adverse to the writ

petitioners, it is open to the writ petitioners to assail the same by way of statutory appeals under Section 10 of said 1905 Act together with stay petitions under Section 10-B;

iv. If the orders of the appellate authority are also adverse to the writ petitioners, it is open to the writ petitioners to file further statutory revisions under Section 10-A of said 1905 Act along with stay petitions under Section 10-B; and

v. Though obvious, we deem it appropriate to make it clear that coercive action if any and if that to be so, will be subject to and depending on the outcome of the proceedings under the said 1905 Act about which there is allusion *supra*.

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** (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**



W.P.No.30354 of 2024

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 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),



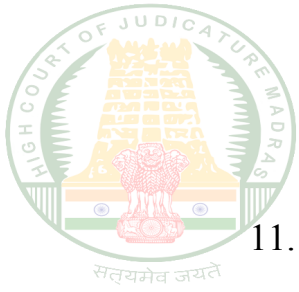
W.P.No.30354 of 2024

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. To be noted, there is no disputation before us that the alternative remedy is efficacious. This Court is relegating writ petitioners to alternative remedy considering the facts and circumstances of the case and said 1905 Act being acutely conscious that alternative remedy rule is a rule of discretion and not an absolute rule.



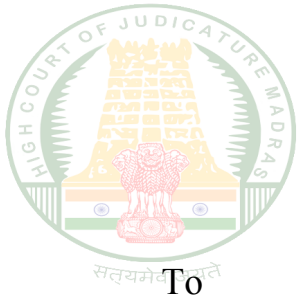
W.P.No.30354 of 2024

11. Captioned WP stands disposed of in the aforesaid manner. As we

have made it clear that coercive action, if any and if that be so, will be subject to the legal drill under the said 1905 Act, captioned WMP thereat has become otiose and therefore, the same is disposed of as closed. There shall be no order as to costs.

(M.S., J.) (H.C., J.)
02.07.2025

Index : Yes/No
Neutral Citation : Yes
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