



W.P.No.34638 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED :11.09.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**

and

THE HONOURABLE MR.JUSTICE **MUMMINENI SUDHEER KUMAR**

W.P.No.34638 of 2025

&

W.M.P.No.38835 of 2025

1. Mr.Ethirajan

2. Mr.D.Panneerselvam

3. Mr.R.Elumalai

... Petitioners

Vs.

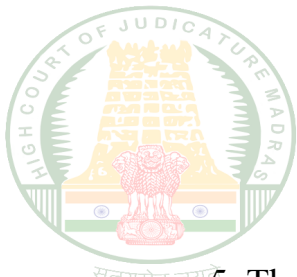
1. The District Collector
Villupuram District
Villupuram

2. The Revenue Divisional Officer
Tindivanam
Villupuram District

3. The Tahsildar
Gingee Taluk
Villupuram District

4. The Block Development Officer
Vallam, Gingee Taluk
Villupuram District

Page Nos.1/10



W.P.No.34638 of 2025

5. The Village Administrative Officer
Pondhai Village
Gingee Taluk
Villupuram District

6. Mr.K.Maharajan
S/o.Karikalan

... Respondents

Writ Petition filed under Article 226 of The Constitution of India
praying to issue a Writ of Certiorari to call for the records of the third
respondent vide impugned notices dated 30.07.2025 and 14.08.2025
respectively under Sections 7 and 6 of Tamil Nadu Land Encroachment Act,
1905 and to quash the same.

For Petitioners : Mr.R.Balaguru Swamy

For Respondents : Mr.T.K.Saravanan
Addl. Govt. Pleader R1 to R5

ORDER

[Order of the Court was made by **M.SUNDAR, J.**]

Captioned main 'Writ Petition' ['WP' for the sake of brevity] has been
filed with a prayer seeking issue of a writ of certiorari qua a notice dated
30.07.2025 issued by third respondent [The Tahsildar, Gingee Taluk,

Page Nos.2/10



W.P.No.34638 of 2025

Villupuram District] and a notice/order dated 14.08.2025 made by third respondent.

2. The afore-referred 30.07.2025 notice issued by third respondent shall be referred to as 'impugned notice' and notice/order dated 14.08.2025 issued by third respondent shall be referred to as 'impugned order', both for the sake of convenience and clarity. To be noted, impugned notice is one 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} and impugned order is one under Section 6 of said 1905 Act.

3. Mr.R.Balaguru Swamy, learned counsel for writ petitioners submits that post impugned order, writ petitioners have sent a detailed representation said to be dated 25.08.2025 but the writ petitioners are under threat of dispossession/demolition.

4. Issue notice to official respondents.



W.P.No.34638 of 2025

5. Mr.T.K.Saravanan, learned Additional Government Pleader accepts

notice for R1 to R5 and submits that the impugned order is an appealable order as a statutory appeal remedy is available vide Section 10 of said 1905 Act and the appellate authority is first respondent.

6. This Court finds that the impugned order is the consequence of the impugned notice. This Court also finds that the matter turns on alternate remedy rule. Therefore, the scope of the captioned main WP is very limited and in this view of the matter, notice to private respondent (sixth respondent) is dispensed with as main WP can be disposed of by making an order which does not impact the rights of private respondent (sixth respondent). Not only will this order not impact the rights of sixth respondent but it is also made clear that all the rights and contentions of sixth respondent will remain preserved untrammelled by this order. Therefore, we dispense with notice to sixth respondent and take up the main WP with the consent of learned counsel for writ petitioner and learned State counsel.



W.P.No.34638 of 2025

7. There is no dispute or contestation before this Court that the alternate remedy vide Section 10 of said 1905 Act is efficacious and effective. This Court also finds that there is a provision to seek stay pending appeal vide Section 10-B of said 1905 Act.

8. This Court, respectfully following the **Girnar** principle being law declared by Hon'ble Supreme Court (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.

9. Considering the facts and circumstances of the case and the attendant factors, this Court is of the considered view that this is a fit case to relegate the writ petitioner to alternate remedy of statutory appeal. In this regard, it is deemed appropriate to write that this Court is acutely conscious



W.P.No.34638 of 2025

WEB.COM

that alternate remedy rule is not an absolute rule and that it is a rule of discretion. In this case, we find that the matter *inter alia* turns heavily on facts and that is the one of the reasons why we are exercising discretion in favour of relegating the writ petitioner to alternate remedy. In any event, as already alluded to supra, it is nobody's case that alternate remedy is either inefficacious or ineffective.

10. As regards, alternate remedy, the prescribed period of limitation is 30 days from the date of receipt of the order by the person concerned. This is vide Section 11(1) of said 1905 Act. In this case, this Court is informed that impugned order was served on the writ petitioner on the same day i.e., on 14.08.2025. The writ petitioner has presented the captioned WP in this Court on the fourteenth day viz., on 28.08.2025. We exclude the period from 28.08.2025 to this date (11.09.2025) by applying the underpinning principle qua Section 14 of the Limitation Act, 1963. This means that writ petitioner has another 16 days from today to file the statutory appeal.



W.P.No.34638 of 2025

WEB COPY 11. We are not interfering with the impugned notice and the impugned order. We are not expressing any view or opinion on the impugned order or the impugned notice but we make it clear that if statutory appeal along with stay petition under Section 10-B of said 1905 Act is filed on or before 27.09.2025, the same shall be considered by appellate authority (first respondent) on its own merits and in accordance with law untrammelled by instant order. We also deem it appropriate to make it clear that there shall be no coercive action till 27.09.2025 and even thereafter, coercive action, if any and if that be so, will be subject to and depending on the outcome of the stay petition under Section 10-B of said 1905 Act if the writ petitioner chooses to avail alternate remedy. If the writ petitioner does not file statutory appeal within the aforesaid time line, it will be open to the authorities to proceed further pursuant to the impugned notice and impugned order without further reference to this Court.

Captioned WP is disposed of in the aforesaid manner. In the light of what this Court is written regarding coercive action, captioned WMP for



W.P.No.34638 of 2025

stay has become otiose and the same is disposed of as closed having become

WEB COM

infructuous. There shall be no order as to costs.

(M.S.,J.)

(M.S.K.,J.)

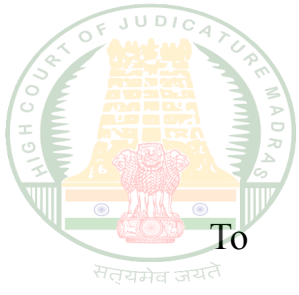
11.09.2025

(1/3)

Index : Yes / No

Neutral Citation : Yes / No

gpa



W.P.No.34638 of 2025

To

WEB COPY

1. The District Collector
Villupuram District
Villupuram
2. The Revenue Divisional Officer
Tindivanam
Villupuram District
3. The Tahsildar
Gingee Taluk
Villupuram District
4. The Block Development Officer
Vallam, Gingee Taluk
Villupuram District
5. The Village Administrative Officer
Pondhai Village
Gingee Taluk
Villupuram District



WEB COPY



W.P.No.34638 of 2025

**M.SUNDAR, J.,
and
MUMMINENI SUDHEER KUMAR, J.,**

gpa

W.P.No.34638 of 2025

11.09.2025