



WEB COPY

W.P. No.38507 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2025

CORAM:

THE HON'BLE MR. JUSTICE M. SUNDAR
AND
THE HON'BLE MR. JUSTICE K. RAJASEKAR

W.P.No.38507 of 2024 and W.M.P. No.41717 of 2024

R. Sampath

Petitioner

vs.

1. The District Collector
Krishnagiri
Krishnagiri District
2. The Tahsildar
Uthangarai
Krishnagiri District
3. The Block Development Officer
K. Papparapatti Village
Uthangarai Taluk
Krishnagiri District

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus forbearing the respondents from interfering with the petitioner's peaceful possession and enjoyment in the land comprised in S.No.69/1 measuring an extent of 1.40 acres in K. Papparapatti Village, Uthangarai Taluk, Krishnagiri District, except by due process of law.

For petitioner

Mr. S. Subramanian

For RR 1 & 2

Mr. T.K. Saravanan
Government Advocate

For R3

Mr. K. Suresh
Government Advocate

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ORDER

(made by M. SUNDAR, J.)

Captioned main 'writ petition' ('WP' for the sake of brevity) pertains to 'land comprised in Survey No.69/1 (admeasuring 1.56.0 hectares or thereabouts, described as 1.40 acres by writ petitioner in the writ affidavit) in K.Papparapatti Village, Uthangarai Taluk, Krishnagiri District' ('said land' for the sake of clarity and convenience).

2. Mr. S. Subramanian, learned counsel for writ petitioner submits that way back in 1971 (23.11.1971 to be precise) the writ petitioner's grandfather was visited with a notice under Section 7 of 'The Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' ('said 1905 Act' for the sake of brevity, convenience and clarity) *qua* said land but thereafter there were no proceedings. It is the case of the petitioner that proceedings were dropped. Notwithstanding such scenario, respondents are now disturbing the possession of writ petitioner, is learned counsel's say.

3. Issue notice to respondents.

4. Mr. T.K. Saravanan, learned Government Advocate, accepts notice for RR 1 and 2. Mr. K. Suresh, learned Government Advocate, accepts notice for R3.



1935-ம் ஆண்டு சென்னைப் பல்கலைக் கல்வி ஆய்விதழ் கட்டடம் (115) ன் 7-வது பதிப்பின் பதிப்பு

இருபதுவாசி மரங்கள், அகத்தூய்மை மரங்கள், தாமரைமரங்கள், மரங்கள்,
க. பாலிமர்சைன்ஸ் டைப், K. பாலிமர்சைன்ஸ் டைப், க. பாலிமர்சைன்ஸ் டைப், க. பாலிமர்சைன்ஸ் டைப்,
மரங்கள்

संक्षेप-संज्ञा

அப்படிப்படுத்துவதற்கான ஆணைகள் தீவிரவாத்தம், பரிசுரவாத்தம் மற்றும் சீலவாத்தம் போன்றும் பாடவேண்டியும் அது ஒருவரால் செய்யப்படுவதற்கான ஆணைகள் எவ்வளவு பெரிக்கப்பட்டு விட்டன அதை எவ்வாறுப்படுத்திக் கொள்ளப்பட்டு வருவாதிக்க சலுகிதரப்படும்படி பிரிக்க வந்தால் ஆய்வாளருக்கு இதனால் அச்சம் கொள்ளக்கூடியதாகிவிட்டது என்பதையும் மேலும் அறிவிக்கப்படுகிறது.

வருவாய் துறை,
அமைச்சர்

திரு சம்பந்தர் திருவிடைமருதவிலிருந்து
கை. 11-ம் பாடல் பற்றிய (தொடர்ச்சி)
கொள்கிறேன் (சாத்தனார்)
சாத்தனாரின் பாடல்.



6. This Court has repeatedly held that said 1905 Act is a self-contained Code. The reason *inter alia* is that there is a provision to have the alleged encroacher show cause under Section 7 of said 1905 Act followed by an order (considering the cause shown). The order under Section 6 is appealable under Section 10 (District Collector is the appellate authority) and there is a provision for further revision to the Government under Section 10-A (Section 10-A(3) to be precise) of said 1905 Act. Pending appeal / revision, there is a provision for making interim prayer *vide* Section 10-B of said 1905 Act. Therefore, said 1905 Act is a self contained Code in every sense of the expression.

7. In the light of the narrative thus far, we find that due process of law has been resorted to. It is now for the noticee/writ petitioner to respond to the said 1905 Act notice and thereafter, the procedure laid down under said 1905 Act will follow.

8. We make it clear that we have not expressed any view or opinion on the merits of the matter and depending on the cause shown by writ petitioner (in response to the show cause notice *vide* Section 7 of said 1905 Act), the authorities can drop the proceedings if they are satisfied with the cause shown and they can equally proceed with



removal of encroachment if that is not the case. We make it clear that the rights of writ petitioner *qua* statutory appeal, statutory revision, etc. (if any and if that be so) are preserved. Though obvious, we further make it clear that further action will be subject to outcome of proceedings under said 1905 Act which has now been kick-started.

9. Captioned main WP is disposed of in the aforesaid manner. Consequently, captioned W.M.P. stands disposed of as closed. There shall be no order as to costs.

(M.S., J.) (K.R.S., J.)
02.01.2025

Index : Yes/No
NC : Yes/No
cad



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M. SUNDAR, J.

and

K. RAJASEKAR, J.

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