



W.P.No.37886 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**  
and  
THE HONOURABLE MR.JUSTICE **K.RAJASEKAR**

**W.P.No.37886 of 2024**  
**and**  
**W.M.P. Nos.40963 and 40964 of 2024 in W.P.No.37886 of 2024**

G.Vijaya

... Petitioner

Vs.

1.The District Collector,  
The District Collectorate,  
Dharmapuri District – 636 705.

2.The Tahsildar,  
Gandhi Nagar,  
Dharmapuri Taluk,  
Dharmapuri District – 636 701.

3.The Assistant Director of Survey,  
A.D. District Survey Department,  
Collectorate Dharmapuri,  
Dharmapuri District – 636 705.

... Respondents

Writ Petition filed under Article 226 of The Constitution of India  
praying to issue a Writ of Mandamus to direct the first respondent to

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dispose of the appeal dated 28.05.2024 on the file of the first respondent within the time frame fixed by this Court.

For Petitioner : Ms.V.Srimathi  
assisted by Ms.V.Pavithra

For Respondents : Mr.M.S.Arasakumar,  
Government Advocate

**ORDER**

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

Captioned main 'Writ Petition' (hereinafter 'WP' for the sake of brevity) has been filed with a prayer to direct R1 [District Collector, Dharmapuri] to dispose of an 'appeal dated 28.05.2024' (hereinafter 'said appeal' for the sake of convenience and clarity).

2. Ms.V.Srimathi, learned counsel for writ petitioner assisted by Ms.V.Pavithra, learned counsel, who is before us submits that the said appeal is a statutory appeal under Section 10 of 'The Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' {hereinafter 'said 1905 Act' for the sake of brevity}. From the case file, we find that said appeal which is a statutory appeal is dated 28.05.2024.



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3. The case of the writ petitioner is that there is possibility of action being precipitated pending appeal and that the writ petitioner has come to Court under pain of such possible precipitative action.

4. Before we proceed further, we make it clear that 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 caused 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.

5. Section 10-B of said 1905 Act provides for a prayer qua interim stay pending appeal. It is open to the writ petitioner to approach R1 with a stay petition under Section 10-B of said 1905 Act,



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if so advised and so desired. If the writ petitioner approaches R1, R1 will obviously consider the stay petition as expeditiously as possible. As of today as there is no stay petition, we deem it appropriate to dispose of the captioned WP as closed albeit with preservation of the rights and contentions of the writ petitioner inter-alia to move stay petition under Section 10-B of said 1905 Act. Consequently, captioned Writ Miscellaneous Petitions (WMPs) thereat are 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  
Neutral Citation : Yes / No  
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To

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- 2.The Tahsildar,  
Gandhi Nagar, Dharmapuri Taluk,  
Dharmapuri District – 636 701.
- 3.The Assistant Director of Survey,  
A.D. District Survey Department,  
Collectorate Dharmapuri,  
Dharmapuri District – 636 705.

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**M.SUNDAR, J.,  
and  
K.RAJASEKAR, J.,**

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