



W.P.No.5250 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2025

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

and

THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

W.P.No.5250 of 2024

P.Perumal

S/o.Ponnusamy

... Petitioner

vs.

1. The District Collector
Salem District.

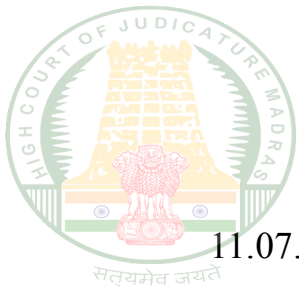
2. The Revenue Divisional Officer
Salem District,
Salem.

3. The Thasildar
Salem Taluk Office
Salem District.

4. The Revenue Inspector
Salem Town, Ammapet
Salem District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, calling for the records relating to the order of the 1st respondent made in Na.Ka.11406/2022/K4 dated



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11.07.2022, to quash the same and to consequently, direct the 1st respondent to drop all further action pursuant to the Land Encroachment Act, 1905 as impermissible and to proceed further only through due process of law.

For Petitioner : Ms.N.R.Jasmine Padma
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, convenience and clarity} has been filed *inter alia* assailing an 'order dated 11.07.2022 bearing reference No. Na.Ka.11406/2022/K4 made by R1 [the District Collector, Salem District]' {hereinafter 'impugned order' for the sake of brevity, convenience and clarity}.

2. Ms.N.R.Jasmine Padma, learned counsel on record for writ petitioner and Mr.M.S.Arasakumar, learned Government Advocate for all the respondents are before us.

3. There is no dispute that the impugned order has been made by R1 in his capacity as Appellate Authority qua Section 10 of 'the Tamil Nadu



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Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' {hereinafter

'said 1905 Act' for the sake of brevity}. To be noted, a statutory revision qua impugned order is available vide Section 10-A of said 1905 Act and there is also a provision for seeking interim stay of the impugned order pending revision and this is vide Section 10-B of said 1905 Act.

4. In this regard, before proceeding further, it is deemed appropriate to write that this Court, in 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 reported in Neutral Citation [2025:MHC:1162], respectfully advertng to the **Girnar** principle i.e., **Girnar Traders (3) Vs. State of Maharashtra** reported in (2011) 3 SCC 1 held that said 1905 Act is a self contained Code. To be noted, **Girnar** principle is one where Hon'ble Supreme Court declared the law as regards what would be a self-contained Code. It was held that a statute, which is a complete legislation with regard to the purpose for which it is enacted and provides for complete machinery to deal with purposes sought to be achieved by the statute with dependence on other legislations being absent or at best minimal, is a self-contained Code.



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5. In this context, 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 (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 of said 1905 Act. Pending appeal / revision, there is a provision for making interim prayer *vide* Section 10-B of 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 by imposition of penal or prohibitory assessment or charge, 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. Suffice to say that said 1905 Act is clearly a self-contained Code.

6. It is nobody's case before us that the captioned matter falls under any of the exceptions to the alternate remedy rule. Be that as it may, this Court is acutely conscious that the alternate remedy rule is not an absolute



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rule and it is a rule of discretion but in the case on hand, we find that a very effective and efficacious alternate remedy is available. On this short point, without going into the merits of the matter, we relegate the writ petitioner to alternate remedy of revision under Section 10-A of said 1905 Act and the writ petitioner can obviously, file revision along with an interim stay petition under Section 10-B of said 1905 Act. We make it clear that the Revisional Authority shall consider the revision (if filed) on its own merits and in accordance with law subject of course to the limitation. On limitation, we make it clear that it is open to the writ petitioner to seek exclusion of time spent in the captioned WP by resorting to Section 14 of the Limitation Act, 1963.

Captioned WP disposed of as closed in the aforesaid manner with aforesaid observations and liberties. There shall be no order as to costs.

(M.S.J.,)

(H.C.J.,)

19.06.2025

(2/2)

Index : Yes / No

Neutral Citation : Yes

Speaking / Non-speaking

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**M.SUNDAR, J.,
and
HEMANT CHANDANGOUDAR, J.,**

mk

To

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