



W.P.No.38591 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.38591 of 2024
and
W.M.P. No.41796 of 2024 in W.P.No.38591 of 2024

N.E.Chokkan @ Chokalingam

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Harur Revenue Division,
Harur, Dharmapuri District.

2.The Tahsildar,
Harur Taluk, Dharmapuri District.

3.The Revenue Inspector,
Morappur, Harur Taluk,
Dharmapuri District.

4.The Firka Surveyor,
Harur Taluk, Dharmapuri District.

... Respondents

Writ Petition filed under Article 226 of The Constitution of India
praying to issue a Writ of Declaration to declare the notices of the

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second respondent in Na.Ka.No.1624/2024/A2 dated 06.11.2024 and Na.Ka.No.1624/2024/A2 dated 25.11.2024 as illegal, null and void.

For Petitioner : Mr.C.K.M.Appaji
For Respondents : Mr.T.K.Saravanan,
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 assailing two notices one dated 06.11.2024 bearing reference Na.Ka.No.1624/2024/A2 and another dated 25.11.2024 bearing reference Na.Ka.No.1624/2024/A2 issued by R2. These two notices shall be referred to as 'I impugned notice' and 'II impugned notice' respectively for the sake of convenience and clarity.

2. Learned counsel for writ petitioner submits that the II impugned notice is a show cause notice 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}, writ petitioner has sent a reply but he is under pain and threat of dispossession.

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3. Issue notice to respondents.

4. Mr.T.K.Saravanan, learned Government Advocate accepts notice for all four respondents.

5. Mr.T.K.Saravanan, learned State counsel submits on instructions that the writ petitioner's reply to II impugned notice is under consideration and appropriate orders will be made under Section 6 of said 1905 Act.

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 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,

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said 1905 Act is a self-contained Code in every sense of the expression.

7. In the light of the narrative thus far, it is clear that further action qua lands which are subject matter of II impugned notice (to be noted, lands which are subject matter of II impugned notice are lands comprised in Survey Nos.6/3B2, 12/1A and 12/3A in Nadupatti Village, Harur Taluk, Dharmapuri District) will be in accordance with said 1905 Act.

8. The stated position of learned State counsel that further action will be in accordance with said 1905 Act douses the anxiety of the writ petitioner. Therefore, we dispose of the captioned WP recording the stated position of the learned State counsel and preserving the rights and contentions of both sides. Before we conclude, we deem it appropriate to write that captioned WP has been filed as writ of declaration whereas it would have been more appropriate to seek a writ of certiorari.



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9. Captioned WP is disposed of in the aforesaid manner.

Consequently, captioned Writ Miscellaneous Petition (WMP) thereat is 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
mmi

To

- 1.The Revenue Divisional Officer,
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Harur Taluk,
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- 4.The Firka Surveyor,
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**M.SUNDAR, J.,
and
K.RAJASEKAR, J.,**

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