



W.P.No.39328 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.39328 of 2024

K.M.Moorthi

S/o.Manickam

.. Petitioner

VS

1. The District Collector
District Collectorate Office
Tiruvallur & District
2. The Tahsildar
Tahsildar Office
Oothukottai
Tiruvallur District
3. The Block Development Officer
Ellapuram Panchayat Union
Oothukottai Taluk
Tiruvallur District



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4. The President
Choolaimeni Panchayat Union Office
Oothukottai Taluk
Tiruvallur District

5. E.Narayanasamy
S/o.Ellappa Reddy

6.K.Gajendiran
S/o.Kuppan

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus by directing the respondents 1 to 4 herein to remove the encroachment made by respondents 5 and 6 in S.No.334/1, Choolaimedu Village, Oothukottai Taluk, Tiruvallur District as per the reply letter dated 12.07.2024 sent by 3rd respondent to the petitioner's representation dated 12.06.2024.

For Petitioner : Mr.M.Tamizavel

For Respondents : Mr.T.K.Saravanan
Government Advocate for R1 to R4



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ORDER

(Order of the Court was made by M.SUNDAR, J.)

Captioned writ petition pertains to alleged encroachment in 'S.No.334/1, Choolaimedu Village, Oothukottai Taluk, Tiruvallur District' [hereinafter 'said land' for the sake of brevity].

2. Mr.M.Tamizavel, learned counsel for writ petitioner submits that repeated representations have not evoked response and that has necessitated the captioned writ petition. Learned counsel submits that R5 and R6 are the alleged encroachers.

3. Issue notice to official respondents.

4. Mr.T.K.Saravanan, learned Government Advocate accepts notice for R1 to R4.



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5. Learned State counsel submits that survey has been conducted, encroachment has been found and proceedings have been initiated under 'the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' [hereinafter 'said 1905 Act' for the sake of convenience] . Learned State counsel submits that an order under Section 6 of said 1905 Act has now been made. This submission is recorded.

6. As we find that alleged encroachers viz., R5 and R6 have been duly show-caused, we deem it appropriate to take up main writ petition with the consent of learned counsel on both sides making it clear that all the rights and contentions of R5 and R6 will stand preserved as the matter progresses under said 1905 Act.

7. Before we conclude 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 followed by an order (considering the cause shown). The order under section 6 is appealable under section 10 [District



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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.

8. Let the proceedings under said 1905 Act continue in accordance with law and let the same be concluded as expeditiously as the business of official respondents would permit but in any event within twelve weeks from today i.e., by 27.03.2025.

Captioned WP is disposed of in the aforesaid manner. 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

Speaking order / Non-speaking order

gpa



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To

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and
K.RAJASEKAR, J.,

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