



W.P.No.1885 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2025

CORAM:
THE HONOURABLE MR.JUSTICE M.SUNDAR
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.No.1885 of 2025 and W.M.P.No.2159 of 2025

K. Selvi

Petitioner

vs.

1. The District Collector
Collectorate
Kallakurichi District
2. The Revenue Divisional Officer
Kallakurichi
Kallakurichi District
3. The Block Development Officer (Village Panchayat)
Kallakurichi Panchayat Union
Kallakurichi District
4. The Tahsildar
Kallakurichi Taluk
Kallakurichi District
5. The Executive Officer
Panchayat President
Varathappanur Village Panchayat
6. Venugopal
7. Pazhanisamy
8. Perumal
9. Shanthi

Page Nos.1/8



W.P.No.1885 of 2025

10. Thamilselvi
WEB COPY

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents to consider the petitioner's representation dated 23.09.2019 and direct the respondents to remove the encroachment on the land being cart track/pathway comprised in S.No.91/23 of an extent of Hectare 0.23.5 Acres (58.045 cents), situated at Varathappanur Village, Kallakurichi Taluk, then Villupuram District, Kallakurichi District and to take appropriate action against the encroachers including the 5th to 9th respondents.

For petitioner	Mr. G. Ilamurugu
For RR 1,2 & 4	Mr. M.S. Arasakumar Government Advocate
For RR 3 & 5	Mr. T.K. Saravanan Government Advocate

ORDER

[made by M.SUNDAR, J.]

Captioned main 'writ petition' (hereinafter 'WP' for the sake of brevity) pertains to 'land comprised in Survey No.91/23 admeasuring 58.045 cents situate in Varathappanur Village, Kallakurichi Taluk,

Page Nos.2/8



W.P.No.1885 of 2025

Kallakurichi District (hereinafter 'said laid' for the sake of convenience and clarity).

2. Learned counsel for writ petitioner submits that the writ petitioner has sent a representation dated 23.09.2019 to R1 (Collector, Kallakurichi District) alleging encroachment in said land by RR 6 to 10 (private respondents) but there is inaction and that has necessitated the captioned main WP.

3. Issue notice to official respondents.

4. Mr. M.S. Arasakumar, learned Government Advocate, accepts notice for RR 1,2 and 4. Mr. T.K. Saravanan, learned Government Advocate, accepts notice for RR 3 and 5.

5. Mr. T.K. Saravanan, learned State counsel, submits, on instructions, that survey has already been conducted and action under 'the Tamil Nadu Land Encroachment Act, 1905' (Tamil Nadu Act III of 1905) (for brevity 'said 1905 Act') is on the anvil. This submission is recorded.



W.P.No.1885 of 2025

6. If there is going to be action under said 1905 Act, the alleged encroachers, more particularly private respondents (RR 6 to 10) will be show caused and we make it clear that all rights and contentions of private respondents are preserved for responding when show caused. Therefore, with the consent of learned State counsel (in plural) and counsel for writ petitioner, main WP is taken up in the Admission Board.

7. It is seen from the case file and it also comes to light from the submission of learned counsel for writ petitioner that R10 (Thamilselvi) has filed a 'civil suit in O.S.No.19 of 2024' on the file of 'Principal District Munsif Court, Kallakurichi' (hereinafter 'said suit' and 'said Civil Court' respectively for the sake of convenience and clarity). The said suit is one for bare injunction, it pertains to said land. The interesting feature is, in paragraph 3 of the plaint, the plaintiff (R10 before us) has made an assertion that said land is 'Government poramboke pathway'. To be noted, this particular sentence in paragraph 3 of the plaint reads as follows:

'3, அதனடியில் ஜெடிபூலில் கண்ட தாவா சொத்து
அரசு புறம்போக்கு பாதையாகும்.'



WEB COPY

8. To be noted, we have already captured and recorded the statement of learned State counsel for RR 3 and 5 (on instructions) that survey has already been conducted and action under said 1905 Act is on the anvil. When action under said 1905 Act is commenced, Section 14 of said 1905 Act will come into play *qua* said suit in said Civil Court. To be noted, Section 14 of said 1905 Act which deals with 'Bar of jurisdiction of Courts' reads as follows:

'14. Bar of jurisdiction of Courts.-- Notwithstanding anything contained in any law for the time being in force, no order passed or proceeding taken by any officer or authority or the State Government under this Act shall be called in question in any Court, in any suit or application and no injunction shall be granted by any Court in respect of any action taken or to be taken by such officer or authority or the State Government in pursuance of any power conferred by or under this Act.'

9. It is open to the writ petitioner to get himself impleaded in the said suit and bring Section 14 of said 1905 Act to the notice of said Civil Court. However, it is open to the defendants therein (to be noted, official respondents before us are defendants therein) to raise this point and it is also open to the said Civil Court to initiate proceedings under Order VII Rule 11 of 'the Code of Civil Procedure, 1905' (hereinafter 'CPC' for the sake of brevity) *suo motu* too as the same is



W.P.No.1885 of 2025

permissible in law.

WEB COPY

10. Be that as it may, in whichever manner Order VII Rule 11 of CPC manifests itself in said Civil Court, the plaintiff shall be given an opportunity before orders are passed by said Civil Court (though an Order VII Rule 11 legal drill is by reading uncontroverted averment in the plaint without adding or subtracting to the same).

11. Learned State counsel for RR 3 and 5 submits that proceedings under said 1905 Act will be commenced forthwith and the same will be concluded (on its own merits and in accordance with law) as expeditiously as the business of official respondents would permit but in any event within 12 weeks from today, *i.e.*, on or before 21.04.2025.

12. *Ergo*, the sequitur is captioned main WP is disposed of in the aforesaid manner. Consequently, captioned writ miscellaneous petition thereat is disposed of as closed. There shall be no order as to costs.

(M.S., J.) (K.R.S., J.)
27.01.2025

Index : Yes / No
Neutral Citation : Yes / No

Page Nos.6/8



W.P.No.1885 of 2025

Speaking order / Non-speaking order
cad

WEB COPY
P.S.

1. Upload forthwith
2. All concerned, including the Registry of Madras High Court, to act forthwith on the uploaded soft copy of this proceedings as uploaded in the official website of this Court. To be noted, the soft copies uploaded in the official website of this Court are watermarked besides being QR coded.
3. List on 09.06.2025 under the cause list caption 'FOR REPORTING COMPLIANCE'



WEB COPY



W.P.No.1885 of 2025

M.SUNDAR, J.

and

K.RAJASEKAR, J.

cad

To

1. The District Collector
Collectorate
Kallakurichi District
2. The Revenue Divisional Officer
Kallakurichi
Kallakurichi District
3. The Block Development Officer (Village Panchayat)
Kallakurichi Panchayat Union
Kallakurichi District
4. The Tahsildar
Kallakurichi Taluk
Kallakurichi District
5. The Executive Officer
Panchayat President
Varathappanur Village Panchayat

W.P.No.1885 of 2025

27.01.2025

Page Nos.8/8