



W.P. Nos.4739, 4742, 4743 and 4745 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR
and
THE HONOURABLE MRS.JUSTICE K. GOVINDARAJAN THILAKAVADI

W.P. Nos.4739, 4742, 4743 and 4745 of 2025
and

W.M.P. Nos.5258,5259,5261 and 5262 of 2025

K. Chokkalingam	Petitioner in W.P.No.4739 of 2025
R. Periyasamy	Petitioner in W.P.No.4742 of 2025
K. Pazhanivel	Petitioner in W.P.No.4743 of 2025
K. Ramasamy	Petitioner in W.P.No.4745 of 2025

vs.

1. The District Collector/Chairman
District Rural Development Agency
District Collectorate Office
Namakkal District 637 003
2. The Revenue Divisional Officer
Thillaipuram
Namakkal 637 001
3. The Tahsildar
Rasipuram
Namakkal 637 408
4. The Assistant Director of Panchayat
Paramathi Road
Namakkal 637 001
5. The Block Development Officer
Vennandur Block
Namakkal District 637 505



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6. The Village Administrative Officer
Vennandur Block
Namakkal District 637 505
7. The President
Thottiyavalasu Panchayat
Vannandur Block
Namakkal District 636 301
8. J. Raja Respondents in all WPs
(R-8 *suo motu* impleaded *vide*
order dated 13.02.2025)

Writ Petitions filed under Article 226 of the Constitution of India seeking a writ of certiorari to call for the records in respect of impugned notice dated 'nil' issued by the President, Thottiyavalasu Panchayat, Vannandur Block, Namakkal District – 636 301 to the petitioners and quash the same.

For petitioner in all WPs Ms. D. Chitra Maragatham

For RR 1 to 7 in all WPs Mr. T.K. Saravanan
Additional Government Pleader

For R8 in all WPs Mr. M. Muruganantham



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COMMON ORDER

[made by M.SUNDAR, J.]

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In the captioned four main 'writ petitions' (hereinafter 'WPs' for the sake of brevity), a undated notice issued by R7 (President, Thottiyavalasu Panchayat, Vannandur Block, Namakkal District) has been called in question and scanned reproduction of the same is as follows:

நோட்டீஸ்

வெண்ணந்தூர் வட்டார வளர்ச்சி அலுவலர் அவர்களின் கடிதம் 1077/2023/தி2, நாள். 30.09.2024-ன்படி சென்னை உயர்நீதி மன்றத்தில் திரு.ஜலந்தர்ராஜா என்பவர் W.P.NO.5498/2023 ஆக்கிரமிப்பு அகற்ற எட்டுவார கால அவகாசம் கொடுக்கப்பட்டது, அதன்படி, ஊராட்சியின் மூலம், பல முறை நோட்டீஸ் நேரிலும், RPAD தபால் மூலமும், சார்வு செய்யப்பட்டது, சில கடிதங்களை தாங்கள் பெற்று கொண்டீர்கள். சில கடிதங்களை தாங்கள் வாங்காமல் ஊராட்சிக்கு திரும்ப வரப் பெற்றது. மேலும், ஊராட்சி பணியாளர்கள், நேரில் வந்து நோட்டீஸ் சார்வு செய்யும்போது, வாக்குவாதத்தில் ஈடுபடுவதுடன், தகாத சொற்களை பயன்படுத்துகிறீர்கள். தற்போது மீண்டும் திரு.ஜலந்தர்ராஜா அவர்கள், சென்னை உயர்நீதி மன்றத்தில் (Contempt No.2453/2024, Dated: 23.08.2024) வட்டாச்சியர் இராசிபுரம் அவர்கள், அனைத்து ஆக்கிரமிப்புகளும் அகற்றப்பட்டுவிட்டது என்றும், தனி நபரால், தென்னை மரங்கள் மற்றும் பட்டு வளர்ப்புகூடம் மட்டும் அகற்றப்படாமல், ஆக்கிரமிப்புப்பில் உள்ளது. இதனை வட்டார வளர்ச்சி அலுவலர் மூலம் அகற்ற நடவடிக்கை எடுக்கப்பட்டு இறுதி அறிக்கை, சென்னை உயர் நீதி மன்றத்தில் சமர்ப்பிக்கிறேன் என வட்டாச்சியர் அறிக்கை கொடுத்துள்ளதால்,

அதன்படி Contempt No.2453, Order Dated: 23.08.2024-ல் வந்த உத்திரவில் அதாவது in Para No.2.

"The learned Government advocate on instructions submitted before this court that the land in question, in which encroachments were made, was surveyed by the Tahsildar, Rasipuram on 26.02.2024. He further submitted that the said land is classified as "Thoppu Puramboke" and its control invested with the Block Development officer. He also submitted that, all the encroachments made in the said "Thoppu Puramboke" were removed, except the 'Sericulture Shed'. He further submitted that, the Block Development Officer is a competent authority to remove the above said, 'Sericulture Cottage' and to that extent, the Petitioner can make are Presentation to the Block Development Officer to take necessary action for removal of the said 'Sericulture Shed'.



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ஆகவே, இந்த நோட்டீஸ் கிடைக்கப்பெற்ற உடன் தாங்கள் தோப்பு புறம்போக்கு ஊராட்சிக்கு சம்பந்தப்பட்டதால், ஊராட்சிக்கு ஒப்படைத்துவிட்டு உடனடியாக, காலி செய்ய வேண்டும். தவறும்பட்சத்தில், வட்டாச்சியர், வட்டார வளர்ச்சி அலுவலர், கிராம நிர்வாக அலுவலர், மற்றும் காவல் துறையின் மூலம் தங்கள் ஆக்கிரமித்து உள்ள நிலங்களை ஊராட்சியின் கட்டுப்பாட்டில் எடுத்து கொள்ளப்படும் என்பதனை தெரிவித்துக் கொள்கிறேன்.

இப்படிக்கு,

President
Thottiyavaiasu Panchayat

பெறுதல்

செய்யுது

1. திரு. ராமசாமி, த/பெ.குப்பநாடார்
தொட்டிய வலசு, இராசிபுரம் வட்டம்,
நாமக்கல் மாவட்டம்.
2. திரு. சொக்கலிங்கம், த/பெ. காளியண்ணன்
தொட்டிய வலசு, இராசிபுரம் வட்டம்,
நாமக்கல் மாவட்டம்.
3. திரு.முத்துசாமி, த/பெ. ரத்தினவேல்
தொட்டிய வலசு, இராசிபுரம் வட்டம்,
நாமக்கல் மாவட்டம்.
4. திரு.பெரியசாமி, த/பெ. ராமசாமி
தொட்டிய வலசு, இராசிபுரம் வட்டம்,
நாமக்கல் மாவட்டம்.
5. திரு. பழனிவேல், த/பெ.கொழந்தா கவுண்டர்
தொட்டிய வலசு, இராசிபுரம் வட்டம்,
நாமக்கல் மாவட்டம்.
6. திரு.மாது, த/பெ.சின்னாக்கவுண்டர்
குடிதெரு கீரனூர், நெ.3.கொமாரபாளயம்,
நாமக்கல் மாவட்டம்.
7. திரு.பழனிவேல் , த/பெ.செட்டியண்ணகவுண்டர்
தொட்டிய வலசு, இராசிபுரம் வட்டம்,
நாமக்கல் மாவட்டம்.

2. The aforementioned notice issued by R7 shall, from here on and henceforth, be referred to as 'impugned notice' for the sake of convenience and clarity.



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3. Ms. D. Chitra Maragatham, learned counsel for writ petitioners, submits that subject matter of captioned main WPs is 'lands comprised in S.Nos.96 and 99 in Keeranur Village, Thottiyavalasu Village Panchayat, Rasipuram Taluk, Namakkal District' (hereinafter 'said lands' for the sake of convenience and clarity).

4. Impugned notice has been issued to the writ petitioners without they being show caused is learned counsel's emphatic say.

5. Issue notice to official respondents.

6. Mr. T.K. Saravanan, learned Additional Government Pleader, accepts notice for RR 1 to 7 and submits that the impugned notice has been issued pursuant to order of another Hon'ble Division Bench being order dated 24.02.2023 in W.P. No.5498 of 2023, a contempt petition being Cont. Petn. No.2453 of 2024 and order dated 23.08.2024 thereat. (To be noted, Cont. Petn. No.2453 of 2024 arises from order dated 24.02.2023 made in W.P.No.5498 of 2023).



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7. Mr. M. Muruganantham (Enrolment No.886 of 2013) having address for service at M.M. Office, No.257, III Floor, Angappa Naicken Street, Canara Bank Building, Chennai – 600 001, who was present in Court, submitted that he has instructions from Mr. J. Raja, writ petitioner in W.P.No.5498 of 2023 which is a public interest litigation (PIL). We *suo motu* implead Mr. J. Raja as R8 and Mr.M.Muruganantham, learned counsel, accepts notice for R8. Mr.M.Muruganantham submitted that Mr. J. Raja filed W.P.No.5498 of 2023 in public interest and the same came to be disposed of on 24.02.2023 by another Hon'ble Division Bench.

8. Owing to the limited legal perimeter of the captioned main WPs, captioned main WPs were taken up in the Admission Board with the consent of all three learned counsel.

9. A careful perusal of order dated 24.02.2023 in PIL W.P. No.5498 of 2023 which is the genesis of the entire matter, brings to light that learned State counsel has made it clear that writ petitioners



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will be proceeded against under 'the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' (for brevity 'said 1905 Act') by issuing notice under Section 7 followed by notice/order under Section 6 of said 1905 Act. The most relevant portion of the order of other Hon'ble Division Bench in this regard is contained in paragraph 4 and the same reads as follows:

'4. Learned Special Government Pleader sought for eight weeks' time to remove the encroachment made by the private respondents, after giving notice to them. He submitted that notice under Section 7, followed by notice under Section 6 of the Tamil Nadu Land Encroachment Act have to be issued to the encroachers.'

10. Thereafter, R8 has filed Cont. Petn.No.2453 of 2024. In Cont. Petn. No.2453 of 2024, learned State counsel, on instructions from the jurisdictional Tahsildar, submitted that said lands have been classified as 'Thoppu Poramboke' (தோப்பு பொறம்போக்கு) and that they vest in R5 herein and contempt petitioner therein (R8 herein) can make a representation to R5 herein. This submission of learned State counsel has been recorded.



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11. The neat question which is necessary for disposal of the captioned main WPs is not really whom said lands vest in but whether action under said 1905 Act has been initiated as per earlier orders. The answer is clearly in the negative. This Court has already extracted and reproduced the relevant portion of the order of Hon'ble Division Bench made in PIL W.P.No.5498 of 2023 filed by R8 and therefore, initiating action against writ petitioners under said 1905 Act is imperative. The clear sequitur is, writ petitioners have to be show caused and given an opportunity. Writ petitioners cannot be straightaway called upon to remove alleged encroachments without being show caused. In this view of the matter, submission of learned State counsel that impugned notice is pursuant to earlier orders of this Court is unacceptable, which means that interfering with and quashing the impugned notice is inevitable. We do so. This further means that certiorari prayer is acceded to.

12. Learned counsel for R8 submitted that it may be desirable to fix a timeline for removal of encroachment drill. In this regard, this Court reminds itself that it has repeatedly held that said 1905 Act is a



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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.

13. Owing to said 1905 Act being a self contained Code with a inbuilt hierarchy, it may not be desirable to fix a timeline but we deem it appropriate to write that the proceedings under said 1905 Act shall be commenced and concluded as expeditiously as the business of official respondents would permit.



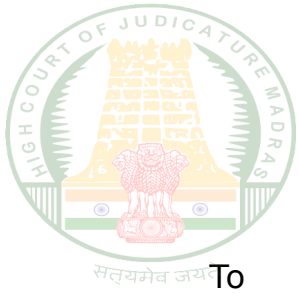
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14. *Ergo*, the sequitur is, captioned main WPs are allowed *i.e.*, certiorari prayer is answered in the affirmative *i.e.*, acceded to but with aforementioned observations and directives. Consequently, captioned writ miscellaneous petitions thereat are disposed of as closed. There shall be no order as to costs.

(M.S., J.) (K.G.T., J.)
13.02.2025

cad	
Index	: Yes/No
NC	: Yes/No



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