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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-11-2026

CORAM

THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE R.RAJESH VIVEKANANTHAN

WP No. 45332 of 2026

CNR: {HCMA012403452026}

G.Hari Krishnan

Case QR

..Petitioner(s)

Vs

1. The Revenue Divisional officer
   Vaduganthangal village,
   Gudiyattam Division
   Near RTO office,
   Gandhi Nagar
   Kondasamudram
   Vellore-632 602

2. The Tahsildar
   K.V.Kuppam
   Vellore District -632 201

..Respondent(s)

Writ Petition filed under Article 226 of the Constitution of India issuing writ of mandamus directing the 1st respondent to consider the petitioner's representation dated 05.08.2026 in the light of the judgment and decree passed in O.S.No.60 of 1989 dated 10.09.1989.

For Petitioner(s): Mr.A.Thiagarajan, Senior Counsel
For Mr.S.Ramesh Kumar

For Respondent(s): Mr.K.Surendar
Special Government Pleader For R1 & 2

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ORDER

(Order of the Court was made by S.M.Subramaniam J.)

Writ of mandamus has been instituted for directing the 1st respondent to consider the petitioner's representation dated 05.08.2026 in the light of the judgment and decree passed in O.S.No.60 of 1989 dated 10.09.1989.

2. The relief as such sought for in the present writ petition is misconceived, since competent authority has already initiated enforcement action to remove the encroachments by issuing a show cause notice under Section 7 of the Tamil Nadu Land Encroachments Act, 1905 (for brevity, hereinafter referred to as 'Act, 1905'), vide notice dated 27.07.2026. It is not in dispute that petitioner has already submitted his explanation to the show cause notice issued under Section 7 of the Act, 1905.

3. The contention of the petitioner is that decree of injunction passed by the Civil Court in O.S. No. 60 of 1989, dated 10.09.1989, is to be considered by the authority.

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4. Question arises, whether a Civil Court decree is to be considered by the authority while removing the encroachments from the Government lands by invoking the provisions of the Act, 1905. In this context, Section 14 of the Act, 1905 contemplates an expressed bar to entertain a suit by the Civil Court. Section 14 states that no injunction shall be granted by any Court in respect of any action taken or to be taken by an authority in pursuance of the powers conferred under the Act. Therefore, no suit is maintainable in respect of the actions initiated for removal of encroachments identified in Government properties. Such suits are to be declared as null and void and this Court, on several occasions, has declared the judgment and decree of such suits as null and void by invoking the powers conferred under Article 227 of the Constitution of India.

5. Perusal of the decree produced by the petitioner would show that Government witness (Part-time Clerk), turned as hostile, which resulted in passing of the decree by the Civil Court. Such decree passed against the Government cannot be executed, in view of an express bar contemplated under Section 14 of the Act, 1905. When the suit itself is expressly barred under a special enactment, judgment and decree passed in O.S.No.60 of 1989, dated 10.09.1989 is to be construed as non-executable.

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6. In the present case, authorities have issued show-cause notice under Section 7 of the Act, 1905, and petitioner has already submitted his explanation in response to the said notice. Thus, said explanation submitted by the petitioner is to be considered and a final decision is to be taken for issuance of final notice under Section 6 of the Act, 1905. If encroachments are identified with reference to the revenue records and documents available, enforcement actions are to be completed by evicting the encroachers and by following the procedures as contemplated under the Act.

7. With the above observations, the writ petition is dismissed. No costs. Consequently, the connected miscellaneous petitions, if any, are closed.

(S.M.S.,J.) (R.R.V.,J.)
10-11-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

GD

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