



WEB COPY

W.P.No.41408 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.01.2026

C O R A M

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
AND

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.P.No.41408 of 2025 and
W.M.P.Nos.46374 and 46377 of 2025

1. Karupayee
2. Thangamani

... Petitioners

-VS-

1. The District Collector,
Office of the District Collector,
Tiruchengode Road, Namakkal.

2. The Tahsildar,
Parmathiv Velur,
Namakkal District.

3. The Revenue Inspector,
Nallur, Paramathi Velur Taluk,
Namakkal District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari, calling for the records relating to the Impugned Order dated 25.10.2025 passed by the 2nd respondent in Na.Ka.4919/2025/A1 under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 and quash the same, as it is arbitrary and against principle of natural justice.

For Petitioners : Mr.R.Vivek

For Mr.S.Senthil

For Respondents : Mr.T.Arun Kumar

Addl. Govt. Pleader



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ORDER

(By.S.M.SUBRAMANIAM,J.,)

Final Notice issued under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 (in short 'the Act, 1905') in Proceedings dated 25.10.2025 is under challenge in the present writ proceedings.

2. The respondents, during the course of inspection, identified encroachments in respect of Government Poramboke lands to a larger extent of about 1.85.0 Hectares in S.No.298/2 at Nallur Village, Paramathi Velur Taluk, Namakkal District. Enforcement actions were initiated. Section 7 Notice was issued affording opportunity to the petitioners to submit their explanations along with documents, if any. Thereafter, final notice under Section 6 was issued. It is not in dispute that an appeal under Section 10 would lie before the District Collector. The petitioners have not exhausted the appeal remedy contemplated under the Act, 1905.

3. Mr.Vivek, learned counsel for the petitioners would mainly contend that impugned Section 6 notice is improper, since it is not a speaking order passed by the competent authority. The final order under Section 6 of the Act, 1905 must contain details regarding grounds raised



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and the reasons for rejection of the grounds raised by encroachers. In support thereof, learned counsel for the petitioners would rely on the order passed by this Court in W.P.(MD) No.27873 of 2024 dated 25.11.2024. In the event of issuing a non-speaking final order under Section 6 of the Act, 1905, the said order is liable to be set aside. It is contended that civil suit has also been instituted, seeking adverse possession and the same is pending. For all these reasons, the impugned final order under Section 6 is to be set aside.

4. Learned Additional Government Pleader would strenuously oppose, by stating that Section 6 notice is a statutory final notice issued under the Act, 1905. There was no adjudication by the Tahsildar at the stage of issuance of final notice under Section 6. On identification of encroachments in public lands, enforcement actions were initiated and if the jurisdictional Tahsildar or the competent authority found that there is no justification for encroachers to occupy Government land, they are empowered to evict them summarily by issuing prior notice under Section 7 of the Act, 1905. In the present case, Section 7 notice was issued and opportunity was afforded to encroachers. Since their explanations are found to be insufficient and unsatisfactory, Section 6 notice was issued. The suit, if any instituted is barred under Section 14 of the Act, 1905 and



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the adverse possession against Government lands cannot be claimed by encroachers in terms of the judgment of the Supreme Court and therefore, the writ petition is to be rejected.

5. This Court heard the arguments as advanced between the parties to the *lis* on hand.

6. In order to appreciate grounds raised by the petitioners that final notice issued under Section 6 of the Act, 1905 must be a speaking order, it is necessary for this Court to consider the scheme under the provisions of the Act, 1905, which is an Act to provide measures for checking unauthorized occupation of lands, which are properties of the Government. Levy on the assessment of lands unauthorizedly occupied is provided under the Act, 1905. Accordingly, persons unauthorizedly occupying the Government land is liable to pay penalty after issuance of notice by the competent authority.

7. Regarding eviction of persons unauthorizedly occupying lands belonging to the Government, Section 6 of the Act, 1905 reads as under:



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“6. Liability of person unauthorisedly occupying land to summary eviction, forfeiture of crops, etc.

(1) Any person unauthorisedly occupying any land for which he is liable to pay assessment under section 3 or section 3-A may be summarily evicted by the Collector, [or subject to his control, by the Tahsildar or Deputy Tahsildar or any other officer authorized by the State Government in this behalf (hereinafter referred to as the 'authorized officer') and any crop or other product raised on the land shall be liable to forfeiture and any building or other construction erected or anything deposited thereon shall also, if not removed by him after such written notice as the Collector [or subject to his control, the Tahsildar or Deputy Tahsildar or authorized officer may deem reasonable, be liable to forfeiture. Forfeitures under this section shall be adjudged by the Collector [or subject to his control by the Tahsildar or Deputy Tahsildar or authorized officer and any property so forfeited shall be disposed of as the Collector [or subject to his control, the Tahsildar or Deputy Tahsildar or authorized officer, may direct.

(2) Mode of eviction. - An eviction under this section shall be made in the following manner, namely:- By serving a notice in the manner provided in section 7 on the person reputed to be in occupation or his agent requiring him within such time as the Collector [or the Tahsildar or Deputy Tahsildar or the authorized officer] *[Inserted by section 3 of the Tamil Nadu Land Encroachment (Amendment) Act, 1965 (Tamil Nadu Act 26 of 1965).]* may deem reasonable after receipt of the said notice to vacate the land, and if such notice is not obeyed, by removing or deputing a subordinate to remove any person who may refuse to vacate the same, and if the officer removing any such person shall be resisted or obstructed by any person, the Collector or the Tahsildar or Deputy Tahsildar or authorized officer shall hold a summary inquiry into the facts of the case, and if satisfied that the resistance or obstruction was without any just cause and that such resistance or obstruction still continues, may issue a warrant for the arrest of the said person and on his appearance commit him to close custody in the office of the Collector [or of any Tahsildar or Deputy Tahsildar or authorized officer] *[Substituted*



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for the words 'or of any Tahsildar or Deputy Tahsildar' by section 3 of the Tamil Nadu Land Encroachment (Amendment) Act, 1965 (Tamil Nadu Act 26 of 1965).] for such period not exceeding 30 days as may be necessary to prevent the continuance of such obstruction or resistance or may send him with a warrant in the form of the schedule for imprisonment in the civil jail of the district for the like period:

Provided that no person so committed or imprisoned under this section shall be liable to be prosecuted under sections 183, 186 or 188 of the Indian Penal Code, 1860 (Central Act XLV of 1860), in respect of the same facts.

(3) Any authorized officer taking proceedings under this section shall make a report in writing containing such particulars as may be specified in rules or orders made under section 8 to the Collector, Tahsildar or Deputy Tahsildar having jurisdiction.”

8. Section 6 of the Act, 1905 says that any person unauthorisedly occupying any land for which he is liable to pay assessment under section 3 or section 3- A may be summarily evicted by the Collector or the authority authorized by the State Government in this behalf and any crop or the product raised on the land shall be liable to forfeiture and any building erected or anything deposited thereon shall also be removed after such written notice by the District Collector or subject to his control, the competent authority may deem reasonable, be liable to forfeiture.

9. Mode of eviction is contemplated under sub-section (2) to Section 6 of the Act, 1905. Therefore, the scope of Section 6 is



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unambiguous that person in occupation of Government land is liable to be evicted summarily by the authorities, however, by following the procedures as contemplated under Section 7 of the Act, which provides prior notice to persons in occupation. Section 7 notice shall be served to the occupier of the Government land to afford an opportunity and on receipt of any representation / explanation along with documents, if any, the same shall be considered by the competent authority and if the authority is satisfied that the said explanation or documents would be insufficient for the purpose of dropping further actions, then he is empowered to evict persons by issuing final notice under Section 6 of the Act, 1905 summarily. Eviction can be made summarily under Section 6 of the Act, 1905 and the only pre-condition is that a show cause notice is to be issued under Section 7 of the Act, 1905. Therefore, the Act, 1905 contemplates that summary eviction of encroachers from Government lands is to be made only on satisfaction that the subject land belongs to the Government. If at all, any persons claiming title, ownership or any civil rights have to approach the competent civil Court for establishing the rights. The competent authority empowered to evict persons from Government land under the Act, 1905 has no jurisdiction to adjudicate or decide the civil rights of the private parties, including encroachers. In essence, the scheme contemplates that a prior notice to a person in occupation of



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Government lands is to be issued before such person is evicted summarily by issuing final notice under Section 6.

10. Pertinently, the model form to be issued under Section 6 is contemplated in Schedule to the Act. When the Statute itself provides a model form to be issued under Section 6, passing of a reasoned order at the stage of issuance of final notice under Section 6 could not arise at all. One cannot expect the competent authority to issue a speaking order, as submitted by the petitioners. Reasoned order is not mandated under the Act, 1905. However, if any appeal is preferred under Section 10 of the Act, 1905 before District Collector, then enquiry is to be conducted by affording opportunity to encroachers as well as Revenue authorities and final speaking order is to be passed by the District Collector under Section 10 of the Act, 1905. That apart, Section 10(B) empowers the District Collector to grant interim order, if any prima facie case is made out by an encroacher to occupy the subject land. Revision is also contemplated. Therefore, the scheme under the Act provides summary eviction by the original authority under Section 6 of the Act by issuing prior show cause notice under Section 7 of the Act. An aggrieved person is at liberty to prefer statutory appeal under Section 10 of the Act before the District Collector, who in turn is bound to conduct elaborate enquiry and pass a reasoned order after



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adjudication. Thus, passing of detailed order is not contemplated under Section 6 of the Act, 1905 and on that ground, it is unnecessary for the Courts to set aside Section 6 notice.

11. That apart, no writ against Section 7 notice or Section 6 final notice is maintainable, unless such notice is without jurisdiction. Therefore, writ petition filed against Section 7 show cause notice or 6 final notice is not entertainable, as these are statutory requirements contemplated for summary eviction of encroachers from the Government properties. However, if an aggrieved person prefers any appeal before the District Collector under Section 10, such appeal is to be decided on merits by passing a reasoned order. After exhausting the statutory remedies, writ petition is maintainable. Based on notice, High Court cannot adjudicate the disputed facts. Factual findings by the District Collector or the Appellate or Revision authority is necessary for effective adjudication of writ petition.

12. Section 14 of the Act contemplates bar of jurisdiction of Courts. Section 14 contemplates that any order or action initiated under the Act, 1905 by the competent authority cannot be subjected to civil proceedings before the competent Civil Court and no injunction can be granted. However, no person is precluded from instituting a Civil Suit for



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declaration of title or claiming other civil rights based on documents or evidences.

13. In view of the above facts and circumstances, the present writ petition is not maintainable. Granting liberty to the petitioners to prefer an appeal under Section 10 of the Act, the present Writ Petition stands dismissed. No costs. Consequently, W.M.P.No.46374 of 2025 is ordered. W.M.P.No.46377 of 2025 is closed.

(S.M.S,J.) (C.K,J.)
19.01.2026

Index: Yes
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Neutral Citation:Yes
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