

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2026

CORAM

**THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM**

**AND**

**THE HON'BLE MR.JUSTICE K. SURENDER**

**W.P.No.39410 of 2025**

**and**

**W.M.P.Nos.44251 & 44252 of 2025**

Selvakumar  
S/o.Murugesan

... Petitioner

vs.

1. The Additional Chief Secretary to Government  
Ezhilagam, Chepauk  
Chennai-600 005.
2. The Commissioner of Land Administration  
Ezhilagam, Chepauk  
Chenani-600 005.
3. The District Collector  
Chengalpet District  
Chengalpet.
4. The District Revenue Officer  
Chengalpet District.
5. The Revenue Tahsildar  
Thirukuzhakundram Taluk  
Chengalpet District.

6. T.R.Sekar  
S/o.Ramadoss Naicker ... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, calling for the records relating to the eviction order dated 12.09.2025 under Section 6 of Tamil Nadu Land Encroachment Act III of 1905 issued by the 5<sup>th</sup> respondent and forbearing the respondents officials from interfering with the petitioner's peaceful possession of the properties with respect to the lands covered under the aforesaid order.

For Petitioner : Mr.S.Saravanakumar

For Respondents : Mr.T.Arun Kumar  
Additional Government Pleader  
for R1 to R5

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### **ORDER**

[Made by **S.M.SUBRAMANIAM, J.,**]

The present writ petition has been instituted challenging the final notice issued under Section 6 of “the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)” {hereinafter “1905 Act” for the sake of brevity}. No writ petition against a final notice under Section 6 of the 1905 Act is maintainable, since an appeal is contemplated under Section 10 of the 1905 Act.

2. The District Collector / Appellate Authority is empowered to conduct a detailed enquiry regarding the encroachments and thus, exhausting the appellate remedy is of paramount importance. The aggrieved encroacher will also be given an opportunity to participate in the enquiry in the appeal proceedings, if any, filed. The High Court cannot decide the disputed questions of facts relating to civil rights and therefore, the writ petition filed without exhausting the appellate remedy is not maintainable.

3. The learned counsel for the petitioner would submit that the subject land is classified as grama natham, and that the petitioner is in occupation and running a shop. Therefore, it is an occupied grama natham and the Government has no right over the same.

4. The learned Standing Counsel, strenuously opposed this contention, by stating that the petitioner is in occupation of the grama natham land and running a commercial establishment. In respect of grama natham lands, the provisions of the 1905 Act would apply in view of the terms and conditions stipulated under Revenue Standing Orders 21(1) read with 26(1).

5. RSO 21(1) reads as under:

*“General (i) Scale of grant :- Portions of grama natham or village site at the disposal of Government, not being land required for the common use of the villagers, may be granted for building purposes to bonafide applicants. The maximum extent that could be assigned to any applicant for building houses is 1.25 ares. But the Tahsildars have discretion to grant a smaller extent in special circumstances, if, for instance the grant of an extent of 1.25 ares would encroach too much upon the area available for future assignments or the extent encroached upon already is less than 1.25 ares. In cases, where the extent is more than 1.25 ares and where it cannot conveniently be sub-divided for grant to another person assignment may be ordered under this R.S.O on collection of market value as per the norms fixed by the Government, from time to time. The assignment in all cases shall be subject to the conditions of the orders of the assignment referred to in paragraph 7 below.*

*Note: - In this Standing Order, the designation ‘Tahsildar’ includes Special Tahsildar employed for assignment work.*

*In assigning lands for house sites care should be taken to see that land is not granted to persons already possessing enough land for their reasonable requirements and that preference is given to those who own no house site and whose family’s income does not exceed Rs.12,000/- per*

annum.

G.O.Ms.No.281. Rev.dt 16.3.95

*People belonging to the Scheduled Castes and Scheduled Tribes are to be given priority in assigning house sites.”*

6. RSO 26(1) reads as under:

*"26. Unauthorised occupation of Government Land : 1. Lands to which Act III of 1905 applies : - Act III of 1905 lays down the procedure to be followed in dealing with unauthorised occupation of "lands which are the property of Government".*

*The term "occupation" must be taken to have the meaning attached to it in common parlance; there must be an intention to appropriate land either temporarily or permanently in order to constitute occupation. For example, when a man dumps earth or rubbish on Government land even though he has no intention of utilizing it afterwards, he "takes possession" of the land for the purpose of depositing his earth or rubbish on it. A man who puts a dam across a stream, digs a channel across a path "take possession" of that portion of the bed of the stream or the path for his own purposes even if only temporarily. The Act does not however, cover the case of prickly-pear spreading from private land to Government land.*

*The phrase "land which are the property of Government" as defined in Section 2 of the Act, includes public roads, streets, lands and paths, vesting in a local body, viz., village panchayat / town panchayat or municipality and railway lands whether classed as permanent or temporary, but does not apply to lands claimed by right of escheat, resumption or reversion, which have not been reduced to the possession of Government.*

*(section 16)*

*Encroachment of any Government land is otherwise a trespass and the encroacher is therefore liable for criminal action also."*

7. A combined reading of RSO 21 and RSO 26 would reiterate that the Government is empowered to regulate the grama natham lands. It is not as if any person can encroach upon the grama Natham lands and claim ownership or title. If such a situation is permitted, it would lead to lawlessness. That apart, this Court has elaborately considered the Full Bench judgement of this Court delivered in the year 1923.

8. Therefore, the Government is empowered to regulate grama natham lands, which are to be assigned for the construction of dwelling houses in terms of the Revenue Standing Orders to landless/homeless

poor persons and may also be utilised for public purposes. Grama natham lands are not meant to be encroached upon by the greedy men or by any person with muscle or political powers. All such lands are to be regulated by the Government in the public interest and to be utilised for construction of dwelling houses by allotting the extent of lands as contemplated under the RSOs.

9. The legal position in this regard has been elaborately considered by two Full Bench judgements of this Court in the case of ***Madathapu Ramaya Vs. The Secretary of State for India in Council*** reported in ***[ILR 1904 (27) Mad 386]*** and in the case of ***the Taluk Board, Dindigul Vs. Venkatarama Ayyar and others*** reported in ***[1923 (18) LW 366]***, wherein it was held that the Government is empowered to regulate grama natham lands.

10. With regard to the recent Full Bench Judgement referred to by the learned counsel for the petitioner in the case of ***Kaman @ Kamatchi Vs. The District Collector and others in W.P.(MD) Nos.19720 of 2017 etc., batch dated 06.03.2026***, two Hon'ble Judges have taken one view, while the third Hon'ble Judge authored a dissenting judgement.

Therefore, the earlier Full Bench judgement of this Court rendered in the year 1923 continues to be a binding precedent, as per the ratio laid down by the Constitution Bench of the Hon'ble Supreme Court of India in ***National Insurance Company Limited Vs. Pranay Sethi*** reported in ***AIR 2017 SC 5157 : 2017 (16) SCC 680***.

11. Article 39(b) and (c) of the Constitution of India reads as under:

*"39. Certain principles of policy to be followed by the State.—  
The State shall, in particular, direct its policy towards securing*

—

*(a) .....*;

*(b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;*

*(c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment; "*

12. Accordingly, the ownership and control of the material resources of the community are so distributed as best to subserve the common good. That apart, the grama natham lands for commercial establishments are impermissible. For all these reasons, this Court is of the considered

view that the present writ petition is not maintainable. Accordingly, the Writ Petition stands dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

**(S.M.S.,J.) (K.S.,J.)**  
**20.04.2026**

Index : Yes  
Neutral Citation : Yes  
Speaking order

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To

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Chennai-600 005.
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and  
K. SURENDER, J.,**

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