

(2026) 01 MAD CK 1759

In the Madras High Court

Case No : Writ Petition No. 6989, 6993 Of 2022, Writ Miscellaneous Petition No. 7019, 7025 Of 2022

Shanmugha Arts, Science Technology & Research Academy
(Sastra) Deemed University And Others

APPELLANT

Vs

State Of Tamil Nadu And Others

RESPONDENT

Date of Decision : 09-01-2026

Acts Referred:

Constitution Of India, 1950 — Article 136

Tamil Nadu Land Encroachment Act, 1905 — Section 6, 10

Citation : (2026) 01 MAD CK 1759

Hon'ble Judges : S.M.Subramaniam, J;C.Kumarappan, J

Bench : Division Bench

Advocate : G.Rajagopalan, G.R.Associates, P.S.Raman, D.Ravichander,
P.H.Aravind Pandian,, B.Amrith Bhargav, D.Ravichander

Final Decision : Dismissed/ Disposed Of

Judgement

S.M.Subramaniam,J

1. Present Writ Petitions are third round of litigations by the petitioners. Longevity of these re-litigations is about 30 years. Issues are already adjudicated and reached finality upto the Hon'ble Supreme Court of India. Thus, it would suffice to consider the correctness of the impugned Government Orders passed, reiterating the earlier decisions to evict the encroachers from the Government land, allotted for construction of a Prison.

2. W.P.No.6989 of 2022 has been instituted, challenging G.O.Ms.No.84 (Revenue and Disaster Management Department Land Decisions NM 6-2 Division) dated 23.02.2022. W.P.No.6993 of 2022 has been filed, challenging the consequential Eviction Notice issued by the Tahsildar, Thanjavur dated 25.02.2022 in R.C.No.19205/2003/B5. Further directions are sought for to consider the representation submitted by the petitioner on 20.09.2018 and on subsequent dates.

History of the Case:

3.1. The petitioners have encroached upon the Government land measuring about [12.70.50 Hectares (31.37 Acres)], situated in R.S.Nos.140, 141, 148 and others in Thirumalaisamuthiram Village, Thanjavur Taluk, Thanjavur District in the year 1985. The said Government land was allotted to the Prison Department of Government of Tamil Nadu for establishing an Open Air Jail. On account of encroachment made by the petitioner University, the Prison Department was unable to develop Open Air Jail in the allotted land.

3.2. Eviction proceedings had been initiated by the jurisdictional Tahsildar, Thanjavur under the provisions of the Tamil Nadu Land Encroachment Act, 1905 (in short 'Act, 1905'). Final Notice under Section 6 was issued, following the judgments delivered in W.P.Nos.14718 and 14719 of 1998 dated 13.07.1998. Opportunities were provided to the petitioner University for voluntary eviction of the superstructure made by the petitioner in Government lands. Challenging the notice issued under Section 6 of the Act, W.P.Nos.9287 and 9292 of 1999 were filed and the said Writ Petitions were dismissed, granting liberty to the petitioner University to file statutory appeals under Section 10 of the Act, 1905. Petitioner filed statutory appeal before the Revenue Divisional Officer, Thanjavur on 28.06.1999, which was dismissed vide order dated 15.10.1999. The said order was taken by way of Review Petition before the District Revenue Officer, Thanjavur on 18.11.1999. The matter was remitted back to the Tahsildar, Thanjavur for fresh enquiry on 03.01.2000. After conducting due enquiry, the Tahsildar dismissed the petition filed by the petitioner University. Again, the petitioner University filed an appeal before the Revenue Divisional Officer, Thanjavur, which was dismissed on 26.06.2000. Thereafter, the petitioner filed a Review Petition before the District Revenue Officer, Thanjavur, which was also dismissed on 26.12.2000 under the provisions of the Act, 1905.

3.3. A second review before the Special Commissioner and Commissioner of Land Administration, Chennai was filed and an interim order was passed. Meanwhile, the Writ Petitioner filed a petition to the Government for assignment of encroached land. Government rejected the request in its Letter dated 19.12.2002 and ordered for eviction of encroachments. Lease rent was also ordered to be collected for the period of encroachment. The Revision Petition filed before the Commissioner of Land Administration was dismissed on 01.03.2004.

3.4. Pertinently, beyond the statutory frame work, appeals, review after reviews were entertained and all the petitions were dismissed at various levels. Finally, challenging the order of the Commissioner of Land Administration, writ petition in W.P.No.9037 of 2004 was filed and an interim stay was granted. The writ petition was disposed of with a direction to assign the encroached land to the petitioner University.

3.5. The Government preferred an appeal in W.A.No.1451 of 2015. Two Hon'ble Judges passed differing Judgements on 11.08.2017. In the lead judgment, a

direction was issued to the Government to consider the Government orders passed in respect to other educational institutions and take an appropriate decision. In the dissenting decision, the order passed in the writ petition was set aside and the Government was directed to evict the petitioner from the encroached lands within a period of 4 weeks. The third Hon'ble Judge concurred with the dissenting judgment and held that the University enjoyed 20.62 acres of lands for the past more than 30 years without paying single naya paise for such occupation. Accordingly, the Hon'ble Third Judge concurred with the dissenting judgment. The majority Judgment directed the Revenue Department to evict the petitioner from the encroached premises in four weeks' time. In order to comply with the time-bound order, notice dated 25.09.2018 was issued to voluntarily vacate the encroached Government land within one month. The request of the petitioner University offering an alternate land in lieu of the encroached portion of the land was repeatedly rejected right from the initial stage.

3.6. The petitioner preferred SLP No.33230 of 2018 and the Hon'ble Supreme Court of India passed the following order:

"We do not find any good and legal ground warranting interference with the impugned order (s) in exercise of our jurisdiction under Article 136 of the Constitution of India.

The special leave petition(s) is accordingly dismissed.

However, dismissal of this special leave petition(s) shall not be an impediment for the petitioners to seek appropriate remedy, if any available under the law, before the appropriate forum.

We express no opinion on such application, if any, filed by the petitioners in this regard and the same shall be considered and decided on its own merits and in accordance with law."

3.7. The petitioner University once again submitted a representation based on the liberty granted by the Hon'ble Supreme Court of India, seeking assignment of land by offering an alternate land nearby the University belonging to the writ petitioner University. The Government rejected the said request of the petitioner in G.O.No.84 of Revenue and Disaster Management Department dated 23.02.2022 (impugned order).

The Government has considered the representation of the petitioner University for assignment, alienation or exchange and rejected already vide the Government Letter No. 541, Revenue Department dated 19.12.2002, G.O. (Ms) No. 313, Revenue and Disaster Management Department L.D 5(2) dated 27.09.2017 and finally, in the present impugned order in G.O. (Permanent) No.84 of Revenue and Disaster Management Department dated 23.02.2022.

Contentions of Writ Petitioners:

4. Mr.G.Rajagopalan, learned Senior Counsel appearing for petitioners in

W.P.No.6989 of 2022 would mainly contend that the impugned Government Order is not in accordance with the directives of the Hon'ble Supreme Court of India. While dismissing the SLP, the Hon'ble Supreme Court granted liberty to the petitioners to seek appropriate remedy before the appropriate forum. Based on the liberty, representations were submitted. However, it was not decided on its own merits. Contrarily, the respondents have reiterated their earlier decisions, which is erroneous. The claim of similarly placed Educational Institutions were considered by the Government and lands were assigned in their favour. Even recently in the case of Chettinadu Cements, the Government assigned the lands. The case of the writ petitioners alone is rejected, despite the fact that they are running an Educational Institution and imparting education to the people of that locality. Certain courses are conducted at free of cost to poor students. All these aspects were not taken into consideration by the Government. A portion of the encroached land is said to be a waterbody and no Open Air Jail Project is implemented. The petitioner University has offered an alternate land to a larger extent and more valuable than that of the Government land under occupation of the petitioner. Therefore, the Government ought to have considered the request of the petitioner University positively.

5. Mr.P.H.Aravind Pandian, learned Senior Counsel appearing for petitioners in W.P.No.6993 of 2022 would contend in addition that Eviction Notice is perverse and the reasonable request made by the petitioner University ought to have been considered on par with few other Educational Institutions in favour of whom Government lands are assigned. The petitioner University alone is discriminated without considering the fact that they are running Educational Institutions. That apart, the Government has not considered the proposal of the petitioner offering an alternate land, which is of more valuable and larger in extent. The reasons stated in the impugned Government order and the consequential Eviction Notice are based on the judgments of the High Court and there is no independent consideration of merits raised by the petitioners that has been undertaken. Thus, the case of the petitioner is to be re-considered by the Government.

Contention of the Government:

6. Mr.P.S.Raman, learned Advocate General appearing on behalf of the State would submit that present litigations are re-litigations and all the grounds raised by the petitioners herein had been adjudicated during earlier rounds of litigations. The Division Bench of the Madras High Court delivered differing judgments and the Hon'ble Third Judge concurred with the dissenting judgment. In result, the majority judgment is to evict the petitioners from the Government land, which is allotted to Prison Department for establishing Open Air Jail. The Government has issued orders for establishing a Jail in the adjacent vacant land belonging to the Government in G.O.(Ms) No.615, Home (Prison-V) Department dated 05.12.2025. Therefore, encroached portion of the land is also required for establishing Prison in the said location. Instead of Open Air Jail, the Government took a decision to establish a Prison and a policy decision has been taken and

Government Orders issued. Unless encroachments are removed, lands under possession of the Government are insufficient for completing the Prison project. Therefore, the Government has taken a decision consciously not to assign the land in favour of the petitioner University.

6.1. He would further submit that it is a policy decision and the petitioner cannot claim assignment of land as a matter of right and granting assignment in favour of one Institution would not confer any right to claim assignment by any other Institutions. Each case has been decided by the Government independently on facts and the requirement of the Government land for the public purpose. There is no obligation on the part of the State to assign the land to the petitioner Institution. They are having sufficient land in the adjacent location and there may not be any difficulty for the petitioner to run the Institution by the petitioner University in their own adjacent lands. They themselves offered to give their own adjacent lands in lieu of the encroached land, which would be evident that the petitioner University can develop their Institution in their own adjacent land. Thus, the offer made by the petitioner was repeatedly rejected right from the initial stage from the year 2002 onwards and at least three rejection orders were passed by the Government in 2002, 2017 and 2022 (the present impugned order). When the Government has consistently rejected the request of the petitioner to assign the Government land and took a policy decision to develop a Prison in the said land and Government order has been passed, the present writ petitions are re-litigations and not maintainable. The Government is bound to implement the majority judgment of the High Court of Madras, which was confirmed by the Hon'ble Supreme Court of India.

6.2. Based on the liberty granted by the Hon'ble Supreme Court, the petitioner University re-litigated the same issue in the present writ petitions. Liberty granted by the Supreme Court is clear that the petitioner University may seek appropriate remedy, if any available under Law. Further, the Supreme Court clarified that if any application is filed, the same shall be considered on merits and in accordance with law. First of all, the Government has rejected the request of the petitioners on several occasions from the year 2002 onwards. Therefore, no application is maintainable before the Government to re-adjudicate the issue, which has attained finality. However, in view of the liberty granted, the Government has considered the very same grounds raised by the petitioners regarding grant of assignment or to accept the alternate land, passed the impugned order. Therefore, the present writ petitions are liable to be rejected.

Findings:

7. The history of the case as narrated above would be sufficient to arrive at a conclusion that the present writ petitions are re-litigations and the issues raised in the present writ petitions were elaborately adjudicated on earlier occasions by the High Court. The majority judgment of the High Court was confirmed by the Hon'ble Supreme Court of India. The Division Bench of Madras High Court in W.A.No.1451 of 2015 passed differing Judgements on 11.08.2017 and the

majority judgment in the said writ appeal is to evict the petitioner University from the Government land and utilize the land for public purposes for establishing an Open Air Jail. The Government took a policy decision to establish a Jail in the said location by evicting encroachers, and utilize the lands along with adjacent Government lands. In view of the policy decision of Government to establish a Prison in that location, once again the request of the petitioner was rejected on the same line, reiterating the earlier decisions of the Government. Assignment of an encroached land cannot be claimed as an absolute right by encroachers. Accepting an alternate proposal is discretion of the Government. Government has taken a decision mainly on the ground that in the encroached portion along with adjacent Government lands are to be utilized for establishing Prison and Orders have been passed. Under these circumstances, the petitioners have not established even a semblance of legal right for the purpose of sustaining their request either before the Government, or before this Court.

8. The petitioner University, by virtue of its status as an Institution was able to litigate and re-litigate the same issues again and again for the past about 30 years and increased the longevity of litigations. The Government is unable to implement public purpose project for the past more than three decades on account of continuous litigations raised by the writ petitioners.

9. Assignment of land available to any other Institution cannot be a ground to seek assignment by the petitioner University in respect of the subject Government land under encroachment, which is earmarked for establishing a Prison by the Government. The entire arguments advanced on behalf of the petitioner University were already adjudicated elaborately on earlier litigations and the Hon'ble Supreme Court also dismissed the SLP filed by the petitioner University. Taking lien on the liberty granted by the Supreme Court to file a representation, once again the petitioner University re-opened the litigative process in the year 2022 and successfully prolonged the same for about three years. Such tactics adopted, by re-litigating the same issue, if encouraged by the Courts, no quietus can be given to the issues and ultimately would result in miscarriage of justice.

10. Government lands are public lands. Public rights are to be protected by the Constitutional Courts. When the Government took a decision to develop originally an Open Air Jail and presently, a Prison in the Government land and Government orders have been issued, there is no reason for the Court to interfere with the policy decision by paving way for encroachers to re-litigate the issue or to continue to possess the encroached public lands. In any angle, the petitioner is not entitled to any relief. The Government has rightly issued the Eviction Notice in Proceedings dated 25.02.2022 to evict the petitioner University within a period of four weeks. Now that three years have lapsed from the date of Eviction Notice.

11. In view of the above findings, the respondents are directed to act upon the impugned Eviction Notice dated 25.02.2022 by evicting the encroachers, if required, with the assistance of Police within a period of four weeks from the

date of receipt of a copy of this order.

Consequently, these Writ Petitions are dismissed. No costs. Connected Miscellaneous Petitions are closed.

List these matters before this Bench for reporting compliance on 18.02.2026.