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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 28.09.2026

Pronounced on : 15.10.2026

CORAM

THE HON'BLE DR. JUSTICE G. JAYACHANDRAN

AND

THE HON'BLE MR. JUSTICE E. MANOHARAN

Case QR

W.P.No.23649 of 2026
and
W.M.P.No.25611 of 2026

CNR: {HCMA011344352026}

1.Periyasamy
S/o. Ganesan

2.Sankar
S/o.Ganesan

Both are residing at
Komarapalayam,
Veppilaipatti post 636 202
Valapady Taluk,
Salem District.

..Petitioner(s)

Vs.

1. The District Collector
   Salem.

2. The District Revenue Officer
   District collectorate,
   Salem 636 001

3. The Revenue Divisional Officer
   Suramangalam,
   Salem 636 005.

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4. The Tahsildar
   Valapadi Taluk,
   Salem District

5. The Revenue Inspector
   Valapadi Taluk,
   Salem district

6. The Village Administrative Officer
   Veppilaipatty Village,
   Valapadi Taluk,
   Salem District.

..Respondent(s)

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the Section 6 Notices issued by the fourth respondent under the Tamil Nadu Land Encroachments Act, dated 12.06.2026 and to quash the same, consequently, direct the respondents to consider the petitioners objection dated 05.06.2026 to the show cause notice issued under Section 7 of the Tamil Nadu Land Encroachments Act, dated 27.05.2026.

For Petitioners: Mr.R.Marudhachalamurthy
For Respondents: Mr.K.Surendar, SGP
for Mr.R.Hashwanth, GA

ORDER

E. Manoharan, J.

Facts and Pleadings:

This Writ Petition has been filed seeking to quash the notice dated 12.06.2026 issued by the fourth respondent/Tahsildar under Section 6 of the Tamil Nadu Land Encroachments Act, 1905, [hereinafter referred to as "the 1905 Act"] and, consequently, to direct the respondents / authorities to consider the petitioners' objections dated 05.06.2026.

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2. The learned counsel appearing for the petitioners submitted that the petitioners herein are brothers and absolute owners, in possession and enjoyment, of the lands comprised in Survey Nos.16/6, 16/7 and 16/17B of Kumarapalayam Village, Valapadi Taluk, Salem District. It is further submitted that originally a portion of land measuring an extent of 0.51 acres in S.F. No. 16/7 was purchased by the petitioners' grandparents, namely, Periyasamy Padayachi and Angammal, under a registered sale deed, dated 25.02.1974 bearing Document No.427/1974 on the file of the Sub Registrar's Office, Valapadi. Subsequently, the said property was partitioned among the family members by a registered partition deed dated 03.02.2012 bearing Document No.469/2012 on the file of the Sub Registrar's Office, Valapadi. The properties allotted to the petitioners have remained in their absolute possession and enjoyment, and they have been cultivating the said lands without interruption.

3. It is further submitted that the petitioners themselves purchased lands measuring an extent of 0.41 acres in S.F.No.16/6 and 0.48 acres in S.F.No.16/7 under a registered sale deed dated 01.07.1985, bearing Document No.1641/1985 on the file of the Sub Registrar's Office, Valapadi. Ever since the aforesaid purchase, the petitioners have been in continuous, peaceful and uninterrupted possession and enjoyment thereof.

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4. The learned counsel for the petitioners submits that the petitioners have raised several coconut and other trees in the said property over a period of more than forty years. It is also pointed out that the revenue records stand mutated in the names of the petitioners, which, according to the learned counsel, further establishes their possession and title over the said property.

5. The learned counsel for the petitioners submits that, on the eastern side of the petitioners' lands, there are third parties, who own adjoining lands and who have been causing disturbance to the petitioners by claiming that certain portions of the petitioners' lands are required for a "pathway" and that a road is required to be formed thereon to reach their agricultural lands.

6. It is submitted that upon enquiry, the Petitioners came to learn that, in the earlier UDR proceedings, portions of their lands in Survey Nos.16/6, 16/7, and 16/17 had been sub-divided as S.Nos.16/6A, 16/6B, 16/7A, 16/7B, 16/17A and 16/17B, and that the said sub-divisions were classified as "Nilaviyal Pathai", (pathway in the field) and that, taking advantage of these revenue entries, the third parties are attempting to form a road.

7. The learned counsel for the petitioners submits that, in light of the above actions of the third parties, the petitioners instituted a suit in O.S.No.60 of 2025 on the file of the learned District Munsif, Valapadi. The learned

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counsel brings to the notice of this Court that, in the said suit, apart from the third parties, respondents 1, 4 and 6 herein have also been arrayed as defendants, and that they were all well aware of the pendency of the suit.

8. The learned counsel for the petitioners also submits that the petitioners preferred a revision petition before the fifth respondent, challenging the correctness and legality of the earlier sub-divisions and survey numbers designated as “Nilaviyal Pathai”, since the same having been effected without affording an opportunity of hearing to the petitioners. The learned counsel for the petitioners brought to the notice of this Court that the first respondent, by notice dated 03.06.2026, had directed the petitioners to appear before the second respondent / District Revenue Officer on 01.07.2026 at 3.00 p.m. for an enquiry regarding the sub-division made in their property and for the issuance of pattas in respect of the said lands. At the time of filing of the Writ Petition, the revision was pending before the second respondent.

9. It is submitted before this Court that, subsequently, the third parties filed W.P.No.35898 of 2025 seeking a direction to respondents 1 to 5 therein (respondents 1, 4 and 6 herein) to take necessary steps to remove the alleged encroachment made by the sixth respondent therein, namely, the first petitioner herein, in Survey No.16/6B of Kumarapalayam Village, Valapadi Taluk, Salem District, the said land being classified as a ‘pathway’ in the revenue records, on

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the basis of the representation of the writ petitioner therein dated 10.07.2025. By order dated 28.04.2026, this Court had passed the following order:

> *"4. In the present case, the enforcement action has already been initiated. Thus, the official respondents shall proceed with the enforcement action by following the procedures and ensure that public pathway is free from any encroachments and put for public usage. The said exercise is directed to be completed within a period of twelve weeks from the date of receipt of a copy of this order. The Writ Petition is disposed of accordingly. ..."*

10. The learned counsel for the petitioners submits that, pursuant thereto, a notice dated 27.05.2026 under Section 7 of the 1905 Act was issued to the petitioners, calling upon them to submit their explanation. The petitioners submitted their detailed objections dated 05.06.2026, setting out the relevant facts. It is submitted that the said objections were duly received by the authorities on 08.08.2026. The learned counsel for the petitioners submits that, within four days thereafter, the fourth respondent, without considering the petitioners' objections issued notice dated 12.06.2026 under Section 6 of the 1905 Act, directing the petitioners to vacate the land within fifteen days, failing which eviction proceedings would be initiated and the standing crops and trees would be confiscated.

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11. The learned counsel submits that this Writ Petition was filed on 18.06.2026 and was first heard on 24.06.2026, and that, while the matter was pending, the respondents, on 24.08.2026, entered the petitioners' property and destroyed around 100 matured trees, including 50 coconut and arecanut trees, which were productive and yielding and had been in existence for the last forty years.

12. The learned counsel for the petitioners submits that the respondents have wholly failed to apply their mind and to follow the procedure established by law, and have also failed to take into account that the suit had been instituted as early as on 05.08.2025, well before the initiation of proceedings under the 1905 Act, and that a revision petition dated 08.10.2025 had also been filed by the petitioners challenging the earlier sub-divisions of their properties, which is pending before the second respondent. The learned counsel for the petitioners further submits that, while O.S.No.60 of 2025 and the revision petition were pending, the respondent authorities, acting in undue haste, proceeded to destroy 100 trees in the petitioners' lands. It is submitted that, by doing so, the respondent authorities have acted in violation of due process of law and have deprived the petitioners of their valuable property / agricultural assets.

13. On behalf of the respondents, a counter affidavit has been filed by the fourth respondent / Tahsildar, Valapadi. The learned Special Government

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Pleader appearing for the respondents submitted that the land in Survey No.16/6B measuring 0.05 hectares in Kumarapalayam Village, Valapadi Taluk, Salem District, is classified as 'Pathway' in the revenue records and is delineated in the FMB sketch. He submitted that this pathway is comprised in Survey Nos.16/4B, 16/5B, 16/7B, 16/17B, 16/18B, 16/19B, 16/20B, 17/11B, 17/13B and 18/3B, and ultimately leads to the burial ground of the Arunthathiyar Community. It is pertinent to note that the fourth respondent has not stated in the counter affidavit whether this is the only way to reach the burial ground or the only means by which the neighbouring landowners/ third parties have access to their properties.

14. The learned Special Government Pleader further submitted that, as per the records and the position on the ground, a 'pathway' exists in the said area, in Survey Nos.16/6B, 16/7B and 16/17B, and that, in view of Section 14 of the 1905 Act, the suit filed by the petitioners is not maintainable, as has been observed by this Court in its Order dated 28.04.2026 in W.P.No.35898 of 2025.

15. The learned Special Government Pleader submits that, after following the procedure under the 1905 Act and in terms of the instructions contained in Revenue Standing Order ("RSO") 26(15), the encroachments made by the petitioners were removed. It is also submitted that, notwithstanding the objections of the petitioners, the encroachments were removed by the

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Government officials with the aid of a JCB machine, and that a 'pathway' of 8.6 mts (28 feet) in width was thereby restored. He further submitted that only 31 yielding coconut trees were removed on 24.08.2026 for restoring the 28 feet width road for public use.

16. In the counter affidavit of the 4th respondent, it is stated that, since all the sub-divisions were made at the time of the survey and settlement (i.e.), 30 years ago, and were incorporated in the register, there is no scope for altering the entries relating to the sub-divisions at this juncture. It is submitted by the learned Special Government Pleader that the respondents followed due process of law in restoring the 'pathway' in the subject property and that, therefore, the Writ Petition deserves to be dismissed as devoid of merit.

17. We have heard the learned counsel appearing for the respective parties and perused the records and documents produced before this Court.

18. While considering the contentions raised by both sides, it is necessary to note that, on the date of hearing date i.e., on 01.09.2026, in this Writ Petition, this Court directed the fourth respondent/Tahsildar, Valapadi as follows:-

"3. In paragraph No.6 of the counter, we find that the Tahsildar, Valapady, claims that a pathway in the middle of the petitioner's patta land is 8.6 meters in width i.e., 28 feet,

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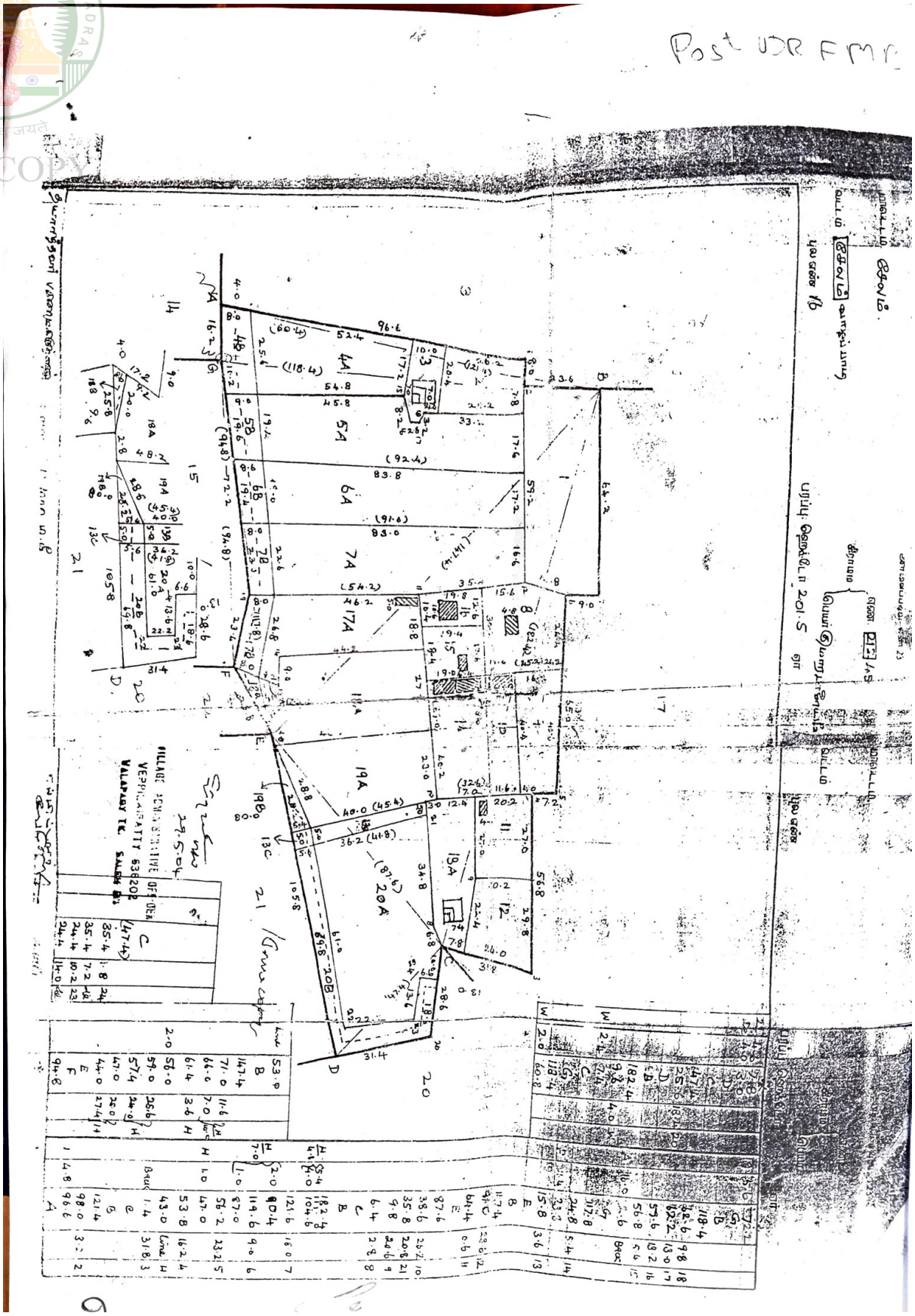
as per the FMB sketch and therefore, all the encroachments on the pathway been removed. We are surprised to note that a pathway in a village running across the agricultural field is found to be 28 feet width in the FMB sketch, as per the Tahsildar's report.

4. We direct the Tahsildar, Valapady, to appear in person on 17.09.2026 and to explain, with documents, how a village pathway with 28 feet width prevail without proper revenue records."

19. A perusal of the counter affidavit filed by the fourth respondent /Tahsildar, Valapadi, does not disclose to how, and on the basis of which revenue documents, the Tahsildar arrived at the conclusion that the "pathway" is 28 feet, i.e., 8.6 mts, in width. Even as per the field map produced and the oral submissions made before this Court on behalf of the respondents, the portion of the pathway running within the area of the petitioners' lands, in the above said survey numbers is only 4 mts in width. It is curious to note that the width of the "road" is also stated in the counter affidavit as 21 feet, and there is thus an apparent discrepancy between the width of the "pathway" as reflected on record and the statement made by the fourth respondent before this Court. The FMB Sketch is extracted hereunder:

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20. The Respondents have submitted before this Court that their action in treating the petitioners as encroachers emanates from Revenue Standing Order 26(15), wherein it is stated that a plan-marked pathway in a patta land is declared to be Government property, thereby vesting ownership in the State. On the strength of the said RSO, any construction of structures or even cultivation or raising of trees on such land, as in the present case, is treated as an encroachment on a Government pathway / land and the provisions of the Tamil Nadu Land Encroachments Act, 1905 are invoked to remove the same. Put simply, a piece of private land is "declared" to be Government property by a Standing Order of the Government merely on the ground that it has been used as a pathway by the local residents or the general public for a certain period of time and, on that account, has found its way into the revenue records. The question that arises is whether this would amount to a lawful divestment of private land in favour of the State, and whether the RSO has the authority to effect such a divestment.

21. Pathways and cart tracks cutting across private lands are more frequently found in rural, agrarian areas than in urban areas, where they serve the purpose of maintaining and fostering social connectivity and a sense of mutual co-existence. They are in the nature of an informal social arrangement rather than a legal mandate conferring a right of way. Courts have held that long-established and regularly used pathways can be protected and converted

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into roads, but only upon their inclusion in the necessary revenue records by following due process of law. Unfortunately, we notice that, in recent times, this administrative instruction has been misused to target landowners with ulterior motives. The intention was to provide agriculturists with access to their respective lands and to ensure the free flow of water to their channels. With the passage of time, rising property values and expansion, these pathways are now being converted into roads, thereby losing the original object for which they were maintained and depriving landowners of large extents of their property under the guise of providing access to neighbouring lands. We have also encountered situations where, even though alternative routes were available to reach the neighbouring owners' properties, these so-called Nilaviyal Pathai or plan-marked pathways were shown and exploited to create shorter access routes, which is not the true intention behind this concept. It is this misuse that has warranted the interference of this Court and the need to explore a more balanced solution. For that purpose, we deem it necessary to start with an examination of the nature and legal status of a Revenue Standing Order (formerly known as the Board Standing Order) and its ramifications.

22. **Law and Interpretation:**

Revenue Standing Order 26 (RSO 26) was brought into effect to implement and align with the Tamil Nadu Land Encroachment Act, 1905 (Act III of 1905). The Board Standing Orders (BSOs) originally created by the

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Madras Presidency's Board of Revenue (established in 1786) and later renamed Revenue Standing Orders—are a compilation of executive orders updated continuously over time. Because RSO 26 specifically outlines the exact legal procedures for handling the unauthorized occupation of government lands governed under Act III of 1905, its modern statutory enforcement framework became effective following the passage of that 1905 enactment

23. RSO 26(15) is extracted hereunder:

15. Encroachments on plan marked details: -- A plan-marked channel or pathway running in a patta land is a Government land. Eviction of encroachments in such lands need be invoked only in cases where the encroacher has interfered with the plan marked detail so as to close its entrance to and exit from his lands. In the case of pathways and cart tracks which have been used by the public till recently, the ryoti should not be allowed to shift the course of the details to suit his own convenience. However, such diversions of plan marked channel from its original course, with a view to consolidate his holding or to facilitate irrigation of the portions which would be otherwise severed need not be treated as encroachment.

24. A perusal of the said Standing Order shows that it declares a plan-marked channel or pathway running in a patta land to be Government land. It further provides that, in the case of pathways and cart tracks which have been

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used by public till recently, the ryoti should not be permitted to shift the course of the detail to suit his own convenience.

25. Before proceeding further, it is to be noted that the term "Nilaviyal Pathai" (*நிலவியல் பாதை*), though not defined in the RSO or the 1905 Act, generally refers to natural or plan-marked pathways. It is also pertinent to note that the Government of Tamil Nadu issued G.O.(Ms) No.97, Revenue and Disaster Management [LD-1(1)] Department, dated 21.02.2025, laying down guidelines for the regulation of encroachments on objectionable poramboke lands. Therein, while enumerating the types of poramboke lands under category 9(B)(II), it has been stated that objectionable poramboke lands vest with local bodies, which include 'vandi pathai' and 'battai', etc. It is based on the width, the stretch is called as Pathai (foot path), Vandi Pathai (Cart tract), Battai, (Street or Road). Though there is no specific mention of 'Nilaviyal Pathai' in RSO or elsewhere, it is to infer that the 'Pathai' is treated as Vandi Pathai by the authorities as falling under this category.

26. Further, the Nilaviyal Pathai drives its existence from the RSO and is commonly correlated with the "pathway" mentioned therein. We now examine how this Court dealt with the Nilaviyal Pathai in conjunction with RSO 26(15):

(a) In ***S. P. Rajamani v. State of Tamil Nadu, Revenue Department, Chennai,*** *by Order dated 06.02.2018, a Division Bench of this Court, after*

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extracting RSO 26(15), recorded that a "Nilaviyal Vandi Pathai (Cart Track)" running through a patta land is owned by the Government and that, when it is used by the general public, no individual can claim an exclusive right over the said track.

(b) A similar view was taken by this Court in ***M. Shajakhan v. The District Collector, Madurai and Others [W.P.(MD) No.5281 of 2014, dated 18.12.2018],*** placing reliance on the above judgment and on RSO 26(15).

(c) In ***J. Jagadesh v. Tahsildar, Modakurichi Taluk, Erode District and Another,*** by Order dated **25.01.2018**, the Division Bench of this Court, taking into consideration RSO 26(15), observed that plan-marked pathways run in Government lands, that land classified in the revenue records as 'Nilaviyal Pathai' is meant for the general public, as a public street, and that the 1905 Act is applicable for the removal of encroachments on such pathways. There are several other judgments of this Court, to the same effect and learned Single Judges have followed the above proposition and passed orders accordingly.

27. The Judgments rendered by the coordinate Benches enforced the Revenue Standing Order (RSO) strictly as it read. This Court respectfully notes that a literal enforcement of the RSO leads to the conclusion that a plan-marked pathway within patta land is automatically converted into Government land,

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thereby triggering the summary eviction mechanisms under the Tamil Nadu Land Encroachment Act, 1905. However, as outlined earlier, the vital issue before us is fundamentally different: can an administrative instruction like an RSO, by its own force, without following due process of law guaranteed under the constitution, divest an individual of private title and vest it in the Government? Furthermore, we must determine what statutory backing or enabling legislative provision, if any, the RSO relies upon to effect such an expropriatory result.

28. Continuing with the analysis of RSO 26(15), RSO 26 is titled "**Unauthorized Occupation of Government Land**". A cumulative reading of the entire Standing Order shows that, while it declares that the procedure prescribed in the 1905 Act applies to the unauthorized occupation of lands which are the property of the Government, the RSO functions primarily as a manual for guiding the authorities in the procedure for dealing with encroachments on Government lands. In fact, RSO 26 [more precisely, RSO 26(1)] adopts the phrase "lands which are the property of Government" from the expression explained in Section 2 of the 1905 Act. The relevant portion of RSO 26(1) is extracted hereunder:

> *"The phrase "lands which are property of Government" as defined in section 2 of the Act, includes public road, streets, lands and paths vesting*

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in a local board 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 (See section 16).”

29. This Court, with due care and caution, observes that it is in this respect that RSO 26(15), which is rooted to the pre-Constitutional Colonial Revenue Regulation, 1803, and Madras Board of Revenue Act, 1894, appears to be an anomaly, in that, rather than adhering to the mode of determining what constitutes Government property as prescribed by Section 2 of the 1905 Act, it departs from it by subsuming private lands within the category of Government property.

30. To obtain a clearer picture, it is necessary to extract Section 2 of the 1905 Act:

“Right of property in public roads, etc., waters and lands.

(1) All public roads, streets, lanes and paths, the bridges, ditches, dikes and fences, on or beside the same, the bed of the sea and of harbours and creeks below high-water mark, and of rivers, streams, nalas, lakes and tanks, and [all back waters, canals and watercourses and all standing and flowing water, and all lands, wherever situated, save in so far as the same

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are the property-

(a)of any zamindar, poligar, mittadar, shrotriemdar or Inamdar or any person claiming through or holding under any of them, or

(b)of any person paying shit, kattubadi, jodi, poruppu or quit-rent to any of the aforesaid persons, or

(c)of any person holding under ryotwari tenure [including that of a janmi in the Gudalur taluk of the Nilgiris district] [and in the transferred territory] or in any way subject to the payment of land-revenue direct to Government, or

(d)of any other registered holder of land in proprietary right, or

(e)of any other person holding land under grant from [the Government] otherwise than by way of licence,

and, as to lands, save also in so far as they are temple site or owned as house-site or back yard, are and are hereby declared to be [the property of Government] except as may be otherwise provided by any law for the time being in force, subject always to all rights of way and other public rights and to the natural and easement rights of other land-owners, and to all customary rights legally subsisting.

(2) All public roads and streets vested in any local authority shall, for the purposes of this Act, be

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deemed to be [the property of Government

Explanation. - In this section, "high water mark" means the highest point reached by ordinary spring-tides at any season of the year.

31. Section 2 of the 1905 Act is declaratory in nature and delineates what falls within the ambit of “Government Property”. It also expressly enumerates the exceptions, i.e., the lands that fall outside its purview. Section 2(1)(d) saves private (patta) lands from being declared as Government property. Section 2 also carefully preserves rights of way and other public rights, the easement rights of other landowners and all customary rights legally subsisting. In declaring what constitutes “Government property”, the provision ensures that it does not operate as a mode of illegal acquisition of private property, thereby avoiding any conflict with Article 300-A of the Constitution of India. RSO 26(15), on the other hand, declares all plan-marked pathways, even those found in patta lands, to be Government land, without the restraint and exceptions built into the 1905 Act. The question that now arises is whether a Revenue Standing Order has the authority to make such a declaration and thereby vest title to private property in the State.

32. The Revenue Standing Order cannot claim its authority for declaring private land as Government land on the strength of the Tamil Nadu Land Encroachment Act, 1905, since the said Act was enacted for checking

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unauthorised occupation of land, which are Crown property. Later, the expression "Crown Property" was substituted by the word 'Property of the Government' by the Adaptation (Amendment) Order, 1950. Therefore, the Land Encroachment Act is only in respect of Government land and not in respect of the Privately owned or patta land.

33. Looking back to the expression used in Revenue Standing Order 26(15), the crucial expression that, a 'plan-marked channel' or 'pathway' running through the patta land declared to be a government land, is based on a deeming fiction. The object of this clause, as it is found from the provision itself, is to preserve the existing entrance and exit through the land from encroachment. The expression "Ryoti" used in the provision indicates that this is a provision to protect the easementary right of way enjoyed by agrarians. Hence, it gains significance for interpreting and implementing Revenue Standing Order 26(15).

34. Thus, a complete reading of Revenue Standing Order 26(15) makes it clear that it is in respect of unauthorised occupation of government land and the only exception is in respect of the patta/private land of an individual 'Ryoti", through which the plan-marked channel or pathway runs, which is used by the public for entrance and exit. The right to declare private land as government land, unmindful of the constitutional guarantee of the right of property and

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contrary to the object and intention of the Standing Order is ultra vires to the Constitution.

35. Revenue Standing Orders are generally regarded as administrative instructions issued to guide the revenue authorities in matters relating to the assignment, disposal, resumption and survey of land, etc. They do not stand on the same footing as statutes enacted by the legislature and as such, cannot override an Act. ***S. Sridhar v. State of Tamil Nadu- [W.P. No. 17248 of 2013 and batch, dated 04.11.2020]***, this Court had dealt with the scope and status of Revenue Standing Orders. In paragraph 14.18 of the said judgment, while tracing the history of Revenue Standing Orders and referring to Section 10 (2) of the Tamil Nadu Board of Revenue Abolition Act, 1980, the Court held that the Standing Orders which emanated from the powers granted to the Members of the Board, or to the Board collectively, by various regulations and enactments would have statutory force as indicated in Act 36 of 1980. The relevant extract is reproduced below:

> … "*Thereafter, the Board of Revenue was abolished by The Tamil Nadu Board of Revenue Abolition Act, 1980 and the powers of the Board were vested with the Government or appropriate authority by section 4 of Act. As per section 10(2), "The standing orders of the Board of Revenue" as in force on the date of the commencement of this Act shall, on and from the said date, be called "Revenue Standing Orders" and continue*

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in force until altered, amended or rescinded by the commissioner or the Government, as the case may be. The Revenue Standing Orders are not rescinded and there are references to it in the policy note of the Government from time to time. Therefore, it is clear that the Standing Orders emanated from the powers granted to the members of the Board or the Board collectively by various regulations and enactments will have statutory force as indicated in Act 36 of 1980."

36. The Tamil Nadu Board of Revenue Abolition Act, 1980 (Act 36 of 1980) was enacted to abolish the Board of Revenue and to make suitable provision for vesting the powers exercised by the Board of Revenue and its Members under various enactments in the Government and such appropriate authorities as may be specified by the Government. Section 10(2) of the Act renames the Standing Orders of the Board of Revenue as "Revenue Standing Orders", preserves them, and specifies the authority competent to alter, amend or rescind them. Section 10(2) is extracted hereunder:

"10. Construction of references to "Board of Revenue" or "Member of Board of Revenue" or "Standing Orders of Board of Revenue":

(2) The "Standing Orders of the Board of Revenue" as in force on the date of the commencement of this Act shall, on and from the said date, be called "Revenue Standing Orders" and continue in force until altered, amended or rescinded by the Commissioner or the Government, as the case may be."

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37. A reading of the above provision shows that the intention of the Act was to preserve the Revenue Standing Orders. Section 9 is the rule- making provision under the Act, and it requires Gazette publication and the placing of the Rules before the Legislative Assembly for post ratification in the event of any modification. There is thus a clear distinction: the RSOs may even be amended by an executive order. The RSOs may refer to Act 36 of 1980 as the statutory basis for their continued operation, but cannot claim supermacy overn the Constitution of India or statutes enacted duly by Parliament or State Assembly. On the strength of Section 8 of Act 36 of 1980, which gives overriding effect to the provisions of the Act, in case of inconsistency with any other provision of law, the RSOs, whose continuity is maintained through the Act, cannot seek to prevail over any other law in force.

38. In this context, it is also relevant to refer to the Full Bench Judgment of this Court in ***K. Nagarathnammal v. S. Ibrahim Saheb and Another - [(1955) 2 Mad LJ 49]***. In that case, the dispute arose under Section 10(5) of the Madras Hereditary Village Offices Act, 1895. The Full Bench observed as follows:

> *"The Standing Orders of the Board of Revenue, consist of at least three categories of rules:*
>
> *(1) Rules framed either by the Government or by the Board itself in pursuance of a statutory power. Thus, for instance, Section 20 (Madras Act III of 1895), confers on the*

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> *Board powers to make rules on various matters with the approval of the Government after previous publication. Such rules are incorporated in the Board's Standing Orders. We have mentioned Madras Act (III of 1895) only by way of illustration. There are several other statutory provisions incorporated in the Board's Standing Orders. (2) The Board's Standing Orders next consist of a large number of orders issued by the Government. (3) The third category consists of orders issued by the Board itself with approval and very often with the previous sanction of the Government. All these have been arranged in the Board's Standing Orders in a manner that should make reference to them easy. It is not therefore entirely correct to say that the orders of the Board are all merely executive instructions devoid of statutory force."*

39. Keeping the above observation in mind and applying it to RSO 26 [which includes RSO 26(15)], it has to be seen whether the power or authority of the RSO is traceable to any statutory source. An authority acting under a statute possesses only the powers expressly conferred by that statute. It must remain strictly within its limits, and cannot enlarge its own jurisdiction or authority by its own instructions. If such a departure is made from the original source of power, the unauthorized deviation is ultra vires and unenforceable for want of statutory sanction.

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40. If an attempt is made to to trace the statutory backing for RSO 26 to the Tamil Nadu Board of Revenue Abolition Act, 1980 (Act 36 of 1980), it is, as seen supra, apparent that the Act merely preserves the continuity of the RSOs, but does not confer upon them any protection, especially to the provisions which are inconsistent to the Constitution. Therefore, it is clear that RSO 26 viz., RSO 26(15) is an administrative instruction carrying executive force, which binds the Government and its functionaries, especially with regard to the disposal and management of Government lands, but has no binding effect on a private person or on the Courts to circumvent the established procedure of law.

41. As we approach the conclusion of this part of the discussion, reference is necessary to the judgment of the Division Bench of this Court in ***Padmavathi and Another v. State of Tamil Nadu, Education Department, Madras and Another, 1976 SCC Online Mad 252.*** The issue therein related to land acquisition proceedings, namely, whether they stood invalidated if the Government had failed to serve personal notices on the landowners at the preliminary stages. In the said judgment, the Division Bench had occasion to deal with the legal status of Board Standing Orders and executive instructions. This Court observed that Board Standing Order No.90 formed part of the Land Acquisition Manual prepared by the Government of Tamil Nadu and essentially instructs officers regarding the general principles and procedures to be

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followed. The Court went on to note that the Board of Revenue is concerned with the superintendence of the revenue of the State from whatever source derived, and that its powers of superintendence and control are limited to persons employed in the executive administration of public revenue and relate only to the control of such administration under the appropriate regulations. Moreover, in paragraph 27, the Court held as follows:

> *"27. Palaniswami, J. in Eswara Pillai v. State of Tamilnadu clearly observed that the instructions contained in Board's Standing Order No. 90 were not issued under S. 55 and strictly speaking they are not statutory rules The learned Judge, however, proceeded to observe: "But, nonetheless, the instructions have statutory force". It is difficult to understand how the instructions of the Board, which are neither statutory nor rules, could yet possess 'statutory force. In our opinion, the only force that executive instructions can have, or hope to have, is executive force; they cannot have legislative or statutory force. Under S. 55(3) of the Act, rules framed by the appropriate Government after following the requirements of that section, can alone possess the 'force of law' and not any other instruments. We have earlier shown how the Board of Revenue has no place in the scheme of the Land Acquisition Act. Considered from that view point, the Board Standing Order No 90 cannot even claim the status of executive instructions."*

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42. The foregoing observations are apposite to the issue at hand and fortify the inference that Revenue Standing Orders are executive instructions carrying executive force binding the Government and its officers. Reliance is also placed on ***M. G. Chakravarthi Naicker and Another v. K. M. Thillaimoorthy and Others [(1970) 1 MLJ 476]***, wherein it was observed that the Government's discretion in disposing of land is limited and governed by the Standing Orders, which it is bound to follow. In ***State of Andhra Pradesh v. N. Venugopal and Others, [(1964) 3 SCR 742: AIR 1964 SC 33],*** it was likewise held that Standing Orders are mere administrative instructions of the Government, devoid of the force of law. A parallel rationale was applied in ***G. J. Fernandez v. State of Mysore and Others [(1967) 3 SCR 636: AIR 1967 SC 1753].***

43. **Do RSO viz., RSO 26(15) empower Executive to take away private land without due process?**

44. We now proceed to the consequential question whether long use of such a plan-marked pathway by the local public confers title on the State, and what is the consequence of such pathways finding entry in the revenue records and thereby being treated as 'Government property':

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45. The Judgment of the Hon'ble Supreme Court in ***Vidya Devi Vs. State of Himachal Pradesh and Others [(2020) 2 SCC 569]*** is material to this branch of the inquiry. In that case, the property of a private individual was taken over by the State for the construction of a major district road, and the construction was completed as early as in the year 1975. No land acquisition proceedings were initiated in respect of the appellant's property. The State contended in its defence that the property had been in its use and continuous possession for the last 42 years and that its title had ripened into adverse possession. The Hon'ble Supreme Court, after hearing both sides, held as follows:

a) No person can be deprived of his property save by due process of law and upon payment of just and proper compensation.

b) While the right to property ceased to be a fundamental right by virtue of the Constitution (Forty-fourth Amendment) Act, 1978, it continues to be a human right in a welfare State and a constitutional right under Article 300-A of the Constitution of India. Article 300-A provides that *"No person shall be deprived of his property save by authority of law"*. The State cannot dispossess a citizen of his property except in accordance with the procedure established by law. The obligation to pay compensation, though not expressly included in Article 300-A, can be inferred therein.

c) To forcibly dispossess a person of his private property without following due process of law, would be violative of a human right, as also of the constitutional right under Article 300-A of the Constitution of India.

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d) The Hon'ble Supreme Court also held that, in a democratic polity governed by the Rule of Law, the State cannot deprive a citizen of his property without sanction of law, and the State must comply with the procedure for acquisition, requisition or any other permissible statutory mode. The State cannot arrogate to itself a status beyond what is provided by the Constitution of India.

e) The Hon'ble Supreme Court took note of the State's contention in that case that it had been in continuous possession of the land for over 42 years, which amounted to "adverse possession". The Hon'ble Apex Court held that the State being a welfare State, cannot be permitted to take the plea of adverse possession, which allows a trespasser i.e., a person guilty of a tort, or even a crime, to acquire legal title over property after twelve years. The State cannot be permitted to perfect its title to the land by invoking the doctrine of adverse possession so as to grab the property of its own citizens was attempted in that case.

46. The aforesaid decision of the Hon'ble Supreme Court, being binding on this Court under Article 141 of the Constitution of India, is pivotal to the present factual matrix. Mere prolonged possession or use of private land by the neighbouring landowners or the public residing in that area cannot entitle the State, least of all under a Revenue Standing Order, to declare it as Government property, even if it has found its way into the revenue records of the

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Government by reason over protracted period. This leads us to the next settled position of law, namely, that entries in revenue records such as patta, adangal, 'A' Register etc., are not documents of title; they neither create or extinguish title. This proposition applies equally to the Government, since merely because a particular stretch of land is shown as a 'pathway' or 'carriage way', it does not automatically become Government property without proper sanction of law.

47. This Court in ***N.S. Kuppuswamy Odayar and Others v. The Panchayat Narthangudi and Others [1971 (1) MLJ 190,*** dated 30.06.1970] has remarked that the mere fact that a particular piece of land has been classified as poramboke, in the resettlement register does not, by itself, establish title in the Government. In ***Sawarni (Smt.) v. Inder Kaur - [(1996) 6 SCC 223]***, the Supreme Court held that mutation of a property in the revenue records neither creates nor extinguishes title, nor does it have any presumptive value on the title. Likewise, in ***Narasamma and Others. Vs. State of Karnataka and Others: [(2009) 5 SCC 591]***, the Supreme Court reiterated the above position, observing that entries in the revenue records cannot create any title in respect of the land in dispute. In ***T. K. Radhakrishnan Vs. State of Kerala*** [RSA No.185 of 2020, Order dated 02.09.2021], the High Court of Kerala at Ernakulam observed that a mere entry of a property in the Asset Register cannot be relied upon to prove that it is a public pathway, unless the said land was dedicated by way of an application to the Government or local authority. The Court held that such

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entries do not confer title over the property on the panchayat and this view was taken by the referring to the judgment of the Division Bench of the Kerala High Court in ***Roy Abraham Vs. State of Kerala [2021 (4) KHC 520 (DB)]***. The Court also relied on the right protected under Article 300-A of Constitution of India.

48. A private property/patta land is ordinarily transferred to the State by many modes, namely, by acquisition under statutes such as the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ["the Land Acquisition Act, 2013"], the Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997, the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978, Tamil Nadu Highways Act, 2001,etc. Land also vests in the State when it is purchased by the Government or by private settlements, or when it is gifted to the State, as in cases where a layout is promoted, or when it is acquired as surplus under laws such as Tamil Nadu Land Reforms (Fixation of Ceiling on Land Act, 1961, or when a property has no heir or owner and passes to the State / Union under Article 296 of the Constitution of India, or when an owner dedicates or surrenders land to the State for public use, etc. In the present case, the land declared as Government property under the Revenue Standing Order has not been transferred by any of the lawfully recognised modes mentioned above.

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49. The Hon'ble Supreme Court, in its recent decision in ***Kolkata Municipal Corporation and Another v. Bimal Kumar Shah and Others***, ***(2024) 10 SCC 533***, has identified seven sub-rights associated with the right to property as within the constitutional framework. They are:

(1) The duty of the State to inform the person that it intends to acquire his property - *the right to notice*,

2) The duty of the State to hear objections to the acquisition - *the right to be heard*;

(3) The duty of the State to inform the person of its decision to acquire - *the right to a reasoned decision*;

(4) The duty of the State to demonstrate that the acquisition is for a public purpose - *the duty to acquire only for a public purpose*;

(5) The duty of the State to restitute and rehabilitate - *the right of restitution or fair compensation*;

(6) The duty of the State to conduct the process of acquisition efficiently and within the prescribed timelines - *the right to an efficient and expeditious process*; and

(7) The final conclusion of the proceedings leading to vesting – *the right of conclusion*.

50. The Hon'ble Apex Court observed that, in para 29: *"Constitutional discourse on compulsory acquisition has hitherto, been rooted in the "power of*

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eminent domain". Even within that articulation, the twin conditions that acquisition be for a public purpose and that the divestiture be subject to payment of compensation were mandated. Although not explicitly contained in Article 300-A, these twin requirements have been read in and inferred as necessary conditions for compulsory deprivation, so as to afford protection to individuals who are being divested of property". The Hon'ble Supreme Court relied on its findings in *Vidya Devi's case* (supra) that the right to property is both a constitutional and a human right. This judgment is cited to reiterate that through the Revenue Standing Order, the State cannot automatically acquire or declare property to be that of the State without adhering to the above rights guaranteed by, and required to be preserved under the Constitution.

51. Our attention is also drawn to the judgment of the Hon'ble Supreme Court in ***Anurag Krishna Sinha v. State of Bihar and Another - 2026 SCC OnLine SC 343***, which involved a challenge to the constitutional validity of a legislation. The impugned enactment, the Srimati Radhika Sinha Institute and Sachchidanand Sinha Library (Requisition and Management) Act, 2015, empowered the State to requisition and manage an educational and library institution established in the year 1924. While allowing the appeal and striking down the said legislation, the Hon'ble Supreme Court held deprivation of property is allowed only by authority of law and the law must be just, fair and reasonable and not arbitrary or confiscatory in effect. The said legislation in

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question therein authorised the State Government to pay compensation upto a maximum of Rs.1/- It held that such a scheme vest unguided discretion in the legislature and reduces compensation to a nominal and illusory figure. The Hon'ble Supreme Court observed that there can be no legislation that permits deprivation of property without adherence to basic requirements of fairness and due process. The absence of any principled or meaningful framework for compensation underscores the arbitrary character of the legislation.

52. This judgment of the Hon'ble Supreme Court also enunciates that deprivation of property must be effected only under a valid law and within a proper legal framework, and cannot be effected without adherence to due process and principles of natural justice. When the Hon'ble Supreme Court has struck down a statute as arbitrary for authorising deprivation of property without adequate safeguards, the principle applies with greater force to Revenue Standing Orders, which are merely administrative instructions. Such instructions are not 'law' within the meaning of Article 300-A of the Constitution, and cannot create title in the State or divest a person of property.

53. In a significant number of cases, entries recording public pathways, footpaths or cart-tracks (*poramboke*) in the revenue records were made *ex parte*, without notice to, or the knowledge or consent of, the recorded pattadar or owner of the land. Similar unilateral alterations appear to have been effected

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during the Updating of Registry (UDR) Scheme, undertaken several decades ago. These entries, having been incorporated into the Revenue Records, are now being relied upon as the basis for declaring the land to be Government property, especially in this scenario surrounding RSO 26(15). Such an approach is unsustainable in law. Revenue entries are made primarily for fiscal purposes and carry a rebuttable presumption of correctness, leaving it open for the party who alleges that the entries in the Revenue Records are wrong to lead evidence to rebut this presumption – ***Vishwasrao Satwarao Naik and Ors vs. State of Maharashtra – (2018) 6 SCC 580***. They are not documents of title and do not, by themselves, create, extinguish or confer any right, title or interest in immovable property. Title can be acquired by the State only through recognised modes, as mentioned above. The mere existence of an entry, made without notice and in violation of the principles of natural justice, cannot divest a lawful owner of title. The manner in which title is being derived is therefore not in consonance with settled principles of law.

54. The above discussion leads to the conclusion that Revenue Standing Orders lack the authority of law to acquire or to declare as Government property, private property, as they are only administrative instructions carrying executive force. Once a property is vested in the State in a lawfully recognised manner, any encroachment thereon can be removed by the functionaries of the State by following the procedures laid down in the Revenue Standing Orders and 1905 Act.

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55. Back to the case in hand, the patta land of the petitioners was taken away by the Executives authorities, particularly, the Tahsildar, Valapadi, for the purpose of establishing a pathway for public use. The action has been taken forcibly, relying upon entries effected during the UDR proceedings and included in the FMB Sketch. Surprisingly, the said entry has no corresponding reference in any of the other revenue records. According to the counter-affidavit filed by the Tahsildar, Valapadi, the 'Nilaviyal Pathai', as shown in the FMB and the sub-division of the land, is about 28 feet in width. Contrarily, the landowner says that the extent of around 28 feet in width has been taken away by the respondents authorities without proper sanction and in the process, more than 100 standing trees were removed. The only provision, relied upon by the respondents for this action, is the unilateral sub-division of the petitioners' patta land and Revenue Standing Order 26(15). We have already made an elaborate discussion regarding the validity and scope of Revenue Standing Order 26(15) vis-a-vis restoring the right of entry and exit through the patta land. This provision under Standing Order has a very limited scope and it confers limited authority to ensure entry and exit through the patta land.

56. The said power and authority cannot be enlarged further to the detriment of the Constitutional right of the land owner. So, even assuming that the Revenue Standing Order 26(15) has limited power under statute to restore the pathway through the private land, in the instant case, the power has not been

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exercised in accordance with law. The arbitrary and illegal exercise of power by the respondents particularity, the 4th respondent, using force to lay a road measuring width of 28 feet, does not align with the spirit of Revenue Standing Order 26(15) and the object of the Revenue Standing Order read with the provisions of the Tamil Nadu Land Encroachment Act, 1905. In the later part of the judgment, we have also taken points to discuss about the width of various kinds of pathways through the land and what could be the probable width of the pathway running along the agricultural field.

57. It all depends upon the usage, as the nomenclature of the pathway differs. For illustration, a pathway in the agricultural field, which is commonly known as 'Nilaviyal Pathai', cannot be more than three feet in width, since it is only for the purpose of enabling the users of the adjacent lands to pass through on foot. Even highways, either State highways or National highways, with four lanes or six lanes, do not have a width of 28 feet per lane. For the said purpose, we draw inspiration from the recommendation of the Indian Roads Congress, especially IRC-Special Publication 20 Rural Roads Manual (2002) which prescribes a width of only 3.75 meters for a surface meant for vehicular traffic, otherwise known as a "carriage way".

58. In any event, taking away 28 feet width of land passing through the patta land of the petitioners, deeming it to be government land because

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unilaterally it has been marked in UDR as pathway, is arbitrary and violation of their constitutional right. We say so, because even if we presume that by deeming fiction, declaring a plan marked pathway as government land is legally sustainable, nonetheless under the guise of restoring the pathway running through the patta land measuring 28 feet width cannot be taken away by uprooting the standing trees without proper Sanction of Law. Such action, without following due process of law, is condemnable. The petitioners'/land owners, who lost their assets due to the high-handedness of the authority, have to be duly compensated.

59. **Striking just balance between the stakeholders** :

Having held as above, we have a duty and responsibility to strike a balance between the right of the landowner and the interests of the adjacent landowners/public, who have been enjoying the benefit of passing through the patta land for years together. The right of entry, the customary right of passage and the power of eminent domain are all distinct and different with demarcation and limitation. These rights are to be presumed with the aid of law and not in violation of law.

60. At the commencement of this adjudication, we expressed our intention to strike a *just balance between various stakeholders*. If long-standing pathways running through *patta* lands were to be extinguished or restrained

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solely on the strength of the foregoing observations and reasoning, it could result in grave hardship and would adversely affect rights of way long enjoyed and customary rights traditionally exercised and affect the sense of community/neighbourly bond. It shouldn't create a situation of *"out of the frying pan into the fire"*. To strike this balance, we deem it appropriate to examine the matter in the light of the Indian Easements Act, 1882 (hereinafter "the Easements Act"). An easement is defined under Section 4 of the Easements Act as a right which the owner or occupier of certain land possesses, as such, for the beneficial enjoyment of that land, to do and continue to do something, or to prevent and continue to prevent something being done, in or upon, or in respect of, certain other land not his own. The land for the beneficial enjoyment of which the right exists is called the dominant heritage, and its owner the dominant owner. The land upon which the liability is imposed is called the servient heritage, and its owner the servient owner. A right of way, being a right of passage over the servient heritage for the beneficial use of the dominant heritage, is a recognised easement.

61. An easement may be acquired by prescription under Section 15 of the Easements Act. Where a right of way or any other easement has been peaceably and openly enjoyed by a person claiming title thereto, as an easement and as of right, without interruption, for a period of twenty years, the right becomes absolute. Under the proviso to Section 15, where the servient heritage belongs

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to the Government, the prescriptive period is thirty years. Further, Section 18 of the Easements Act recognises that an easement may be acquired by virtue of local custom. Such easements are termed customary easements. They are established by proof of a custom that is ancient, certain, reasonable and continuous, and they enable the inhabitants of a locality, or a defined class of persons, to claim a right of passage over land notwithstanding that no individual dominant heritage may be identifiable. Pathways traditionally used by the residents of a village may therefore be protected on this footing also, independently of Section 15.

62. A statutory parallel can be drawn with Section 10(b) of the Indian Telegraph Act, 1885, which encapsulates a legal mechanism balancing the needs of public infrastructure development against private property rights. Under this provision, the telegraph authority is explicitly restricted from acquiring any ownership or title over the subject property, instead, it is granted a Right of User, a limited, non-possessory statutory right analogous to a legal easement. Because the underlying title remains unimpaired with the original landowner, the State is exempted from initiating formal, protracted land acquisition proceedings. However, this statutory power is not absolute. Section 10(d) imposes a strict statutory obligation to minimize injury, requiring the authority to cause as little damage as possible and mandating the payment of full compensation for any consequential damage caused to crops, trees, or

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structures. The Hon'ble Supreme Court of India in ***Power Grid Corporation of India Limited v. Century Textiles and Industries Limited*** **(2017) 5 SCC 143**, has held that the statute vests the authority with the absolute power to enter land and erect infrastructure without the legal requirement of prior notice or consent from the landowner as a condition precedent.

63. Reference has been made to the Indian Telegraph Act, 1885 (since repealed), only as an illustration of a statutory scheme that balances public interest against private rights. Under Section 10, the Telegraph Authority may enter private land and place telegraph lines and posts. This is a mere right of user or easement. It does not divest the owner of title or ownership and the owner remains entitled to compensation for any damage. Under the Telecommunication Act, 2023, Section 12 the framework is based on mutual agreement with the land owner. The Court will keep this principle of "balance", under which public infrastructure is provided with the least interference with the owner's title, in mind while reaching its conclusion.

64. With the aforesaid in mind, another possibility for the preservation of title and public infrastructure of access/pathway is claim of right of way through Dedication. A common law doctrine under which an owner who sets apart land, or permits the public to use it, as a way is taken to have intended to dedicate it to public use. The intention may be express, or it may be implied from the

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owner's conduct. Where a way has been used by the public over a long period, especially in circumstances where the owner must have known of the public's belief that the way was dedicated for the said purpose, Court may infer dedication, though the inference is not conclusive and is open to denial. The Hon'ble Supreme Court in ***Municipal Board, Manglaur v. Sri Mahadeoji Maharaj*** reported in ***AIR 1965 SC 1147***, had stated the following:

> "*8. The law on the subject may be briefly stated thus: Inference of dedication of a highway to the public may be drawn from a long user of the highway by the public. The width of the highway so dedicated depends upon the extent of the user. The side-lands are ordinarily included in the, road, for they are necessary for the proper maintenance of the road. In the case of a pathway used for a long time by the public, its topographical and permanent landmarks and the manner and mode of its maintenance usually indicate the extent of the user.*
>
> *10. If that is the legal position, two results flow from it, namely, (1) the Municipality cannot put up any structures on the public pathway which are not necessary for the maintenance or user of it as a pathway, (2) it cannot be said that the putting up of the structures for installing the statue of Mahatma Gandhi or for piyo or library are necessary for the maintenance or the user of the road as a public highway. The said acts are unauthorised acts of the Municipality. The plaintiff, who is the owner of the soil, would certainly be entitled to ask for an injunction restraining the Municipality from acting in excess of its rights. But the plaintiff cannot ask for possession of any part*

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of the public pathway, as it continues to vest in the Municipality".

65. In the aforesaid case the Hon'ble Supreme Court had referred to the decision of the Division Bench of this Court in ***S. Sundaram Ayyar v. Municipal Council of Madura and Secretary of State for India in Council – (1902) ILR 25 Mad 635*** and recorded the following:

> "*A Division Bench of the Madras High Court in S. Sundaram Ayyar v. The Municipal Council of Madura and The Secretary of State for- India in Council dealt with the scope of such vesting under the Madras District Municipalities Act, 1884. The head-note therein brings out the gist of the decision, and it reads: "When a street is vested in a Municipal Council, such vesting does not transfer to the Municipal authority the rights of the owner in the site or soil over which the street exists. It does not own the soil from the centre of the earth usque ad caelum, but it has the exclusive right to manage and control the surface of the soil and so much of the soil below and of the space above the surface as is necessary to enable it to adequately maintain the street as a street. It has also a certain property in the soil of the street which would*

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enable it as owner to bring a possessory action against trespassers."

Keeping in view the foregoing modes by which a right of way may be established, namely prescription under Section 15, custom under Section 18, and dedication, we proceed to frame an appropriate remedy to resolve the larger issue arising for our consideration

66. After examining the merits of the Petitioners' case on the facts placed before this Court, together with the objections raised by the Respondents, we re-capsulate that the Authority has laid a pathway of 28 feet (approximately 8.6 metres) in width even while a perusal of the revenue records produced and submissions of the Respondents, the width of the public pathway is only about 4 metres in the sub divided land, whereas the counter affidavit speaks of restoring a "road" of 21 feet, which is inconsistent with the 28 feet that the Respondents have cleared/restored. The Chain Survey and Land Records Manual, Part I, produced by the Respondents, in Chapter 9 relating to the measurement of ordinary sub-divisions, states that "channels and paths not exceeding 20 links (4 meters) in which (unless they have been acquired under the Land Acquisition Act or except in special cases to be determined by the Collector), shifting cart tracks and foot paths and roads under the control of the Public Works Department, passing through large tracks of reserved forests or other Government land should be treated as detailed and not as sub-divisions." The

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Chain Survey and Land Records Manual, Part II, Chapter I, also bears out the same position in revenue administration. It is observed therein that bends on the boundaries of sub-divisions relating to roads, cart tracks and channels registered as poramboke in the revenue records, which do not exceed four metres in width, need not be durably demarcated.

67. Contrary to the Respondents' contention, the subject pathways appear to be demarcated. It was also submitted across the Bar that the pathway is 8 metres in width and runs in continuity across Survey Nos. 16/4B, 16/5B, 16/7B, 16/17B, 16/18B, 16/19B, 16/20B, 17/11B, 17/13B and 18/3B, which lends strength to the statement made in Court, earlier on behalf of the Respondents, that the width of the pathway running across the portion of the Petitioners' sub divided land is only around 4 mts.

68. It is also a matter of concern that, despite this Court's order dated 01.09.2026 directing the Respondents to produce the documents explaining how the village pathway of 8 metres in width came to be cleared, no such records have been placed on record. Nothing has been shown to explain how a village pathway width can be more than the roads and streets found in urban areas. It is also not clear whether it is the only means of access to the neighbouring lands and the burial ground referred to in the counter-affidavit. Whether or not alternative means of access exist, and even if the Petitioners' land were the only

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means of access, the entries in the revenue records cannot be relied upon by the State to assert a right over the land, or to declare it as their own, without the sanction of law. Should it be the intention of the State to provide a wider road to the burial ground, it is open to the State to acquire the requisite land in accordance with law, upon payment of compensation.

69. It is of interest to note that Section 47 of the Tamil Nadu Combined Development and Building Rules, 2019, which deals with layouts and sub-divisions, prescribes a minimum width of 7 metres for the public road or street giving access to a residential layout and 9 metres for an industrial layout. Under the same provision, the width of the passage varies from 1 to 4 metres, depending on the number of plots it serves. Under Chapter 4 (Traffic and Transportation) of the Second Master Plan of the Chennai Metropolitan Development Authority, a footpath is prescribed to be not less than 1.5 metres in residential areas and 3 metres along major roads with commercial activity. These prescriptions of the statutory authorities may be regarded as the equivalent of a 'pathai' (pathway) or carriageway. The Respondents have shockingly, taken a width of 28 feet for what is effectively prescribed as a 'pathway', which is clearly excessive, and the land has, moreover, been declared Government land without the sanction of law. The Revenue Standing Orders (RSO) contain no clear definition or prescription of what constitutes a "pathway" or its permissible width. On a reading of the Tamil Nadu Combined

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Development and Building Rules, 2019, and the IRC norms, such a pathway falls short of being equated with a 'road'. There is therefore a lacuna and ambiguity in the RSO. Where any provision operates to divest a private property, it must be strictly construed and if there is ambiguity or any doubt, the same must be interpreted in favour of the land owner.

70. With regard to the ground raised by the Respondent that Section 14 of the 1905 Act will apply against the Suit initiated by the Petitioner, we find as follows: Section 14 is extracted hereunder:

> "***14. [Bar of jurisdiction of Courts. [Substituted by Tamil Nadu Land Encroachment (Amendment) Act, 1995 (Tamil Nadu Act 1 of 1996).]-*** *Notwithstanding anything contained in any law for the time being in force, no order passed or proceeding taken by any officer or authority or the State Government under this Act shall be called in question in any Court, in any suit or application and no injunction shall be granted by any Court in respect of any action taken or to be taken by such officer or authority or the State Government in pursuance of any power conferred by or under this Act. Construction of references. - In the application of any rule, by-law, regulation notification, form or order made or issued under the Principal Act, any reference to the Board of Revenue shall, unless the context otherwise requires, be deemed to be a reference to the Commissioner of Land Administration.]"*

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71. A simple reading of the provision goes to show that no order passed or proceedings taken by any officer or authority by the State under this Act can be called in any Court or in any suit etc., In the current circumstances it is seen that the Suit viz., O.S.No.60 of 2025 was filed even prior to the initiation of the proceedings under 1905 Act and it is not challenging any proceedings or order under the said 1905 Act and therefore the same cannot be said to be not maintainable citing Section 14 of the Act.

72. The Petitioners had also preferred a Revision Petition before the First Respondent challenging the sub-division, and the First Respondent had called for an enquiry before the Second Respondent on the date and time specified. That being so, it is not open to the Fourth Respondent to now contend in the counter-affidavit that entries made thirty years ago cannot be reopened. Such a stand not only defeats the Petitioners' right of revision, but also runs contrary to the judgment of the Hon'ble Supreme Court in *Vidya Devi*, referred to supra. The stand of the Fourth Respondent reduces the safeguards and remedies afforded in the form of revision and appeal to an empty formality, and results in the mechanical rejection of the Petitioners' rights without due application of mind.

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73. The impulsive and arbitrary actions of the Fourth Respondent, coupled with non-application of mind, have directly caused the unlawful destruction of the Petitioners' property, specifically, the unauthorized felling of numerous high-yielding trees and the derailing of the statutory revisionary mechanism. Furthermore, the Counter Affidavit submitted by the Fourth Respondent remains evasive and non-responsive to the specific queries raised by this Court. Given these arbitrary actions and omissions, the Fourth Respondent’s actions necessitate, the drawal of an adverse inference by this Court.

74. In light of the foregoing reasoning and findings, we hold as follows with regard to Revenue Standing Order 26, in particular clause (15) thereof (RSO 26(15)):

(a) RSO 26(15) cannot declare the portion of the patta land as government land just because a plan marked pathway exists. The title of the land will continue to vest with the land owner, holding a valid title in law, subject to the right of way for the public. We make it clear that the possession of the land alone will vest with State for the purpose of maintaining the plan marked pathway and the local public/community will have access or right of way through the said lands.

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(b) The width of the plan marked pathway shall be maintained as per the revenue records available with the State. If the pathway is sought to be expanded or the ownership to be transferred to the State, then the Government may do so by invoking acquisition proceedings under the respective Land Acquisition Laws prevailing in the field and pay due compensation to the land owners.

(c) The landowner or any other third party should not cause any form of obstruction or encroachment on the plan marked pathway. If there is any such encroachment/obstruction, it is open to the State and its functionaries to take action under:

(i) Section 152 of the Bharatiya Nagarik Suraksha Sanhita, 2023, or

(ii) Invoke provisions of Local Bodies Act for e.g., Section 128 of the Tamil Nadu Urban Local Bodies Act 1998 or Section 131 of the Tamil Nadu Panchayats Act 1994 or Section 180 read with Section 180-A of the District Municipalities Act 1920 to remove any such obstruction or encroachment.

(d) The land owner, shall subject to the prior consultation and formal concurrence of the concerned authorities, have the right to alter the alignment and configuration of the plan marked pathway. Such modifications, including but not limited to the relocation of the pathway contiguous to the property boundary, may be executed to optimize the utility and enjoyment of the estate, provided that the width, capacity, and ingress/egress functionality of the

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pathway remain undiminished. A subsequent purchaser of the land or successor in title to the subject land is bound by any subsisting public right-of-way arrangement, which constitutes a covenant that runs with the land to ensure access to the public.

(e) The Government authorities may avail the services of the District Mediation Centres in order to arrive at a binding agreement with the land owners in case of changes to the design/alignment of the pathway.

(f) The aforesaid directives shall be without prejudice to any plan marked channel under the RSO 26(15) or form of water body as mentioned in Section 2 of the Tamil Nadu Land Encroachment Act, 1905. All channels and riparian water bodies flowing through the land vest with the State under the Public Trust Doctrine and thus no private person or land owner can claim any ownership over same or obstruct their flow. If any such attempt is made to interfere or obstruct the water channel, it is open to the State and its authorities to take strict action under laws available including and not limited to the 1905 Act.

75. Insofar as the petitioners' case is concerned, we hold that:

(a) The proceedings under Section 6 Notice dated 12.06.2026 is passed, without considering the objection made by the Petitioners to the Section 7 notice dated 05.06.2026. Hence, Section 6 notice dated 12.06.2026 stands quashed.

(b)The objection dated 05.06.2026 is to be considered on merits and an

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appropriate order is to be passed following the clarification mentioned above.

(c)The Petitioners are entitled to due compensation for felling of trees illegally without following due process of law.

(d) It is open to the Petitioners to approach the appropriate Civil Court seeking compensation for the trees felled and cut by the Fourth Respondent and the same shall be decided on its own merits.

(e) As a token, Rs.10,000/- is imposed on the Fourth Respondent for the hasty and arbitrary manner in which she proceeded in the above case causing damage to private property. The cost is to be paid by the State and recovered from the Fourth respondent.

76. With the above findings and reasoning, ***the Writ Petition herein is allowed.*** Consequently, connected Miscellaneous Petition stands closed.

(G.J.,J.) (E.M.,J.)
15.10.2026

Index: Yes
Speaking/Non-speaking order
Neutral Citation: Yes

DP

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To

1. The District Collector,
   Salem.

2. The District Revenue officer,
   District collectorate,
   Salem 636 001

3. The Revenue Divisional officer
   Suramangalam,
   Salem 636 005

4. The Tahsildar
   Valapadi Taluk,
   Salem district

5. The Revenue Inspector,
   Valapadi Taluk,
   Salem District.

6. The Village Administrative Officer,
   Veppilaipatty Village,
   Valapadi Taluk,
   Salem District.

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DR.G.JAYACHANDRAN, J.
AND
E.MANOHARAN, J.

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ORDER MADE IN
W.P.No.23649 of 2026

15.10.2026

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