



W.P.(MD).No.1192 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 15.12.2023

CORAM

**THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN**

W.P.(MD).No.1192 of 2023
and
W.M.P.(MD).Nos.1101 and 7101 of 2023

Saiva Samarasa Sudha Sanmarga Sabai,
Registered Society (Regn No.47/1978),
Represented by its President
Rajendramani, Ottanchathiram Main Road,
Ottanchathiram, Dindigul.

.. Petitioner

Vs.

- 1.The Superintending Engineer,
Tamil Nadu Highways,
Madurai.
- 2.The Divisional Engineer,
Tamil Nadu Highways (Constructions and Maintenance),
Dindigul.
- 3.The Assistant Divisional Engineer,
Oddanchathram Sub Division,
Oddanchathram,
Dindigul District.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India
to issue a writ of Certiorarified Mandamus, calling for the records of the 3rd



W.P.(MD).No.1192 of 2023

respondent in his proceedings in Na.Ka.No.62/2022/A2 dated 27.12.2022 and quash the same as illegal and null and void and consequently direct the 3rd respondent to desist from proceeding with his above proceedings.

For Petitioner : Mr.S.M.Arun Kumaar

For Respondents : Mr.SP.Maharajan
Special Government Pleader

ORDER

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

The notice issued under Section 28(2)(ii) of the Tamil Nadu Highways Act, 2001 by the Assistant Divisional Engineer, Oddanchatram dated 27.12.2022, is sought to be quashed in the present Writ proceedings.

2. The petitioner Society states that the Society was originally formed in the year 1952 and was named as “Oddanchathiram Saiva Samarasa Sudda Sanmarga Sabai”. They are propagating the preachings of Saint Vallalar and claiming title over the subject property.

3. The learned Special Government Pleader appearing for the respondents made a submission that a detailed survey was conducted by the



W.P.(MD).No.1192 of 2023

Highways Department and after identifying the encroachment in the Highways property, actions are initiated against the encroachers by invoking Section 28 of the Act. It is further contended that the highways road being used by the worshippers of Palani Temple and large number of people are going by walk and in the event of not expanding the road project, there is a possibility of frequent accidents. More so, road expansion became imminent in that locality and other encroachments were already removed in that locality. Since because the petitioner has filed the present Writ Petition, the authorities are unable to remove the encroachment and complete the road expansion project in the highways road.

4. The learned counsel appearing on behalf of the writ petitioner mainly contended that patta under the Inam Abolition Act was granted in favour of the petitioner Society and therefore, they cannot be construed as encroachers.

5. If at all the petitioner Society claims title, they have to establish the same independently before the competent Civil Court of law based on documents and evidences available. However, the actions initiated by the



W.P.(MD).No.1192 of 2023

competent authorities under the Highways Act cannot be interfered with, since they have conducted survey and found that the subject property belongs to Highways Department. Therefore, we are not inclined to interfere with the notice issued by the authority under Section 28 of the Act. The petitioner, if claims title, may approach the competent Civil Court of law. There is no impediment for the respondents to proceed with the removal of encroachments.

6. Accordingly, the Writ Petition stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

(S.M.S.,J.) (V.L.N.,J.)
15.12.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm



W.P.(MD).No.1192 of 2023

WEB COPY

1. The Superintending Engineer,
Tamil Nadu Highways,
Madurai.
2. The Divisional Engineer,
Tamil Nadu Highways (Constructions and Maintenance),
Dindigul.
3. The Assistant Divisional Engineer,
Oddanchathram Sub Division,
Oddanchathiram,
Dindigul District.



WEB COPY



W.P.(MD).No.1192 of 2023

S.M.SUBRAMANIAM,J.
and
V.LAKSHMINARAYANAN,J.

Lm

W.P.(MD).No.1192 of 2023

15.12.2023