

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2015

CORAM

THE HONOURABLE MR.JUSTICE D.HARIPARANTHAMAN

C.R.P.(PD)Nos.2589, 3440 and 3447 of 2015
and M.P.Nos.1 of 2015 (in each CRP)

C.R.P.No.2589 of 2015

The Project Director,
The National Highways Authority
of India (NHAI),
Vazhuthareddy, Villupuram.

.. Petitioner/2nd Respondent/2nd Defendant

Vs.

1. Bar Association, Gingee,
Rep. by its President,
D.Manivannan,
Office at Bar Association,
Gingee, Villupuram District.
2. Gingee Advocate Association
Gingee, rep. by its President,
T.S.R.Kalimoorthy
3. M.Chengalvarayan
4. G.Rajendran .. Respondents 1 to 4/Petitioners/Plaintiffs
5. The State of Tamil Nadu,
Rep. by its District Collector,
Villupuram. .. 5th Respondent/1st Respondent/1st Defendant
6. The District Collector,
Thiruvannamalai District,
Thiruvannamalai.
7. The Superintendent of Police,
Villupuram District.
8. The Superintendent of Police,
Thiruvannamalai District.
9. The Deputy Superintendent of Police,
Gingee.

..Respondents/Respondents3-6/Defendants3-6

C.R.P.No.3440 of 2015

The Project Director,
The National Highways Authority
of India (NHAI),
Vazhuthareddy, Villupuram.

.. Petitioner/2nd Defendant

Vs.

1. Bar Association, Gingee,
Rep. by its President,
D.Manivannan,
Office at Bar Association,
Gingee, Villupuram District.
2. Gingee Advocate Association
Gingee, rep. by its President,
T.S.R.Kalimoorthy
3. M.Chengalvarayan
4. G.Rajendran ... Respondents/Plaintiffs
5. The State of Tamil Nadu,
Rep. by its District Collector,
Villupuram. ... Respondent/1st Defendant
6. The District Collector,
Thiruvannamalai District,
Thiruvannamalai.
7. The Superintendent of Police,
Villupuram District.
8. The Superintendent of Police,
Thiruvannamalai District.
9. The Deputy Superintendent of Police,
Gingee.

... Respondents/Defendants 3 - 6

C.R.P.No.3447 of 2015

1. State of Tamil Nadu
Rep. by its District Collector,
Villupuram.
2. The Project Director,
National Highways Authority of India,
NHAI, Vazhuthareddy, Villupuram.

3. The District Collector,
Tiruvannamalai District,
Tiruvannamalai.
4. The Superintendent of Police,
Villupuram District.
5. The Superintendent of Police,
Tiruvannamalai District.
6. The Deputy Superintendent of Police,
Gingee. .. Petitioners/Defendants

Vs.

1. Bar Association, Gingee
Rep. by its President D.Manivannam,
Bar Association, Gingee.
2. Gingee Advocates Association,
Gingee Advocates Association Office, Gingee
Villupuram District, rep. by President
T.S.R.Kalimoorthy
3. M.Chengalvarayan
Advocate, Gingee,
Villupuram District.
4. G.Rajendran
Gingee, Villupuram District. .. Respondents/Plaintiffs

Prayer in CRP No.2589 of 2015 : Civil Revision Petition has been filed under Article 227 of the Constitution of India praying to call for the records relating to the suit in O.S.No.170 of 2015 on the file of the Principal District Munsif at Gingee and strike off the suit.

Prayer in CRP No.3440 of 2015 : Civil Revision Petition has been filed under Article 227 of the Constitution of India praying to call for the records relating to the Notice dated 13.08.2015 issued by the Principal District Munsif at Gingee and quash the same.

Prayer in CRP No.3447 of 2015 : Civil Revision Petition has been filed under Article 227 of the Constitution of India praying to call for the entire records O.S.No.170 of 2015 on the file of the Principal District Munsif, Gingee and strike out the same.

For Petitioner in CRP Nos.2589 : Mr.P.Wilson, Senior Counsel
and 3440 of 2015 and Petitioner for M/s.P.Wilson Associates
No.2 in CRP No.3447 of 2015

For Petitioners 1, 3 to 6 in CRP : Mr.P.H.Aravind Pandian,
No.3447 of 2015 and Additional Advocate General
respondents 5 to 9 in CRP assisted by
Nos.2589 and 3440 of 2015

For Respondents 1 to 4 in CRP : Mr.V.R.Appaswamee
Nos.2589, 3440 & 3447 of 2015

C O M M O N O R D E R

The Bar Association, Gingee, represented by its President, the Gingee Advocates Association, and two others filed O.S.No.170 of 2015 seeking, among others, the following reliefs :

- i. to pass a decree declaring that the suit property National Highway 66 running between Tindivanam to Krishnagiri is not fit for traffic or use by public due to its dreadful and harmful condition ;
- ii. to pass a decree for mandatory injunction directing the defendants to carryout and complete work of laying the road from Tindivanam to Krishnagiri (National Highway 66) for the public use and traffic;

2. The plaintiffs filed I.A.No.833 of 2015 in O.S.No.170 of 2015 under Order XXXIX, Rules 1 and 2 read with Section 151 of C.P.C. seeking interim injunction.

3. The learned Principal District Munsif, Gingee, granted interim injunction on 29.06.2015 in I.A.No.833 of 2015 in O.S.No.170 of 2015 restraining to ply the vehicles in the National Highway No.66 from Tindivanam to Krishnagiri and vice versa.

4. While so, C.R.P.No.2589 of 2015 was filed by the Project Director, National Highways Authority of India (for short "NHAI") seeking to strike off the plaint in O.S.No.170 of 2015.

5. While ordering notice of motion in C.R.P.No.2589 of 2015, this Court, by an order dated 30.06.2015, suspended the injunction order.

6. The Principal District Munsif, Gingee, after passing the order dated 30.06.2015 in C.R.P.No.2589 of 2015 by this Court

suspending the injunction order, issued notice dated 13.08.2015 directing the personal appearance of two District Collectors, two Superintendents of Police, a Deputy Superintendent of Police and the Project Director, NHAI.

7. While so, CRP No.3440 of 2015 is filed by the Project Director, NHAI, questioning the aforesaid Notice.

8. CRP No.3447 of 2015 is filed seeking to strike off the suit.

9. This Court, by an order dated 20.08.2015, granted interim stay of the operation of the notice.

10. Today, all the three CRPs are listed and a common additional affidavit dated 25.08.2015 is filed by the Project Director, NHAI, stating that the NH No.66, that is in dispute in O.S.No.170 of 2015, could be laid, repaired and maintained properly. The said affidavit is taken on record and the same shall form part of this order. While giving the details of the Stretch/Awarded Cost, Name of the Bidder, Status of work and Remarks, the Project Director has stated the probable date of completion of work in the remarks column of the table that is mentioned in paragraph 3 of the Common Additional Affidavit. Paragraph 3 of the Common Additional Affidavit is extracted hereunder :

Sl. No.	Details of the Stretch/Awarded Cost	Name of the Bidder	Status of Work	Remarks
1	From Km.37/600 to Km.104/193-Tindivanam to Tiruvannamalai section other than the partially completed stretches by the erstwhile concessionaire (Package No.NHAI/VPM/NH-66/ R&M/2015-16/01) Awarded cost : Rs. 5,06,33,857.50	M/s.Notch (India) Projects, Madurai.	Agreement signed 12.08.2015. Repair work commenced on 12.08.2015. 35 Kms of repair works complete (out of 66.593 Kms.) Formal approval from Forest Department for 2.8 Kms of stretch is awaited.	Though the prescribed completion of work is 8 months, the Contractor has been advised to complete the repair work by deploying more no. of men and machinery in order to provide motorable road to the public. Probable date of completion is 11.10.2015.

Sl. No.	Details of the Stretch/Awarded Cost	Name of the Bidder	Status of Work	Remarks
2	From Km.104/193 to Km.166/620 - Tiruvannamalai to Singarapettai Section (Package No.NHAI/VPM/NH-66/ R&M/2015-16/02) Awarded Cost : Rs.2,76,16,463/-	M/s.Notch (India) Projects, Madurai.	LOA issued to the bidder on 18.08.2015. The Performance security BG is to be submitted by the Contractor.	After confirmation of BG, the Contract Agreement will be signed. The work will be commenced by the Contractor during 1st week of Sept.15. Though, the scheduled completion is 6 months, the Contractor has been advised to complete the repair work within 2 months from the date of entering agreement.
3	From Km.166/620 to Km.219/782 Singarapettain to Krishnagiri section (Package No.NHAI/VPM/NH-66/ R&M/2015-16/03) Rs.7,14,18,187/-	M/s.M.Muth ukrishnan, Tirunelveli	Agreement signed on 14.08.2015. Repair work commenced on 17.08.2015	The prescribed completion is 9 months. However, the Contractor has been advised to complete the repair work within 3 months. The laying of WMM is under execution.

11. In view of the common affidavit filed by the Project Director, NHAI, the learned counsel for the Bar Association, Gingee and other petitioners, who are the Plaintiffs in O.S.No.170 of 2015, has expressed the willingness of the plaintiffs to withdraw the suit.

12. The learned Senior Counsel for the petitioner in CRP Nos.2589 and 3440 of 2015 submitted that in view of the undertaking given by the petitioner/Project Director, NHAI, CRP No.2589 of 2015 could be allowed by striking off the plaint.

13. Accordingly, CRP Nos.2589 and 3447 of 2015 are allowed and the plaint in O.S.No.170 of 2015 on the file of the Principal District Munsif, Gingee, is struck off. Since CRP Nos.2589 and 3447

of 2015 are allowed, consequently, CRP No.3440 of 2015 is also allowed. Since the CRPs are allowed based on the undertaking, a direction is issued to the NHAI to strictly adhere to the undertaking by completing the work in time, as per the undertaking. There will be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

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To

1. The Principal District Munsif,
Gingee.
2. The District Collector,
Villupuram District, Villupuram.
3. The District Collector,
Thiruvannamalai District,
Thiruvannamalai.
4. The Superintendent of Police,
Villupuram District.
5. The Superintendent of Police,
Thiruvannamalai District.
6. The Deputy Superintendent of Police,
Gingee.
7. The Project Director,
The National Highways Authority
of India (NHAI),
Vazhuthareddy, Villupuram.

1 cc to M/s.P.Wilson Associates , Advocate Sr.No.45778
1 cc to Government Pleader.Sr.No.45703

C.R.P.(PD)Nos.2589, 3440
and 3447 of 2015
and M.P.Nos.1 of 2015

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pmk.23.09.2015