

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2015

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.P.No.212 of 2015

R.Padmavathi
Dealer, ESSAR Oil Limited,
Virudhachalam Main Road,
Romapuri,
Neyveli-2
Cuddalore District.

... Petitioner

Vs.

- 1.The Government of Tamilnadu,
rep by its Secretary,
Highways Department,
Fort St.George,
Chennai-600 009.
- 2.The Superintending Engineer,
National Highways Department,
Kurankuchavadi,
Omalur Main Road,
Salem-4
Salem District.
- 3.The Assistant Divisional Engineer,
National Highways Department,
Salem / Virudhachalam I/C,
Kurankuchavadi,
Omalur Main Road,
Salem-4
Salem District.
- 4.The Assistant Engineer,
National Highways Department,
Virudhachalam Section-1,
National Highways Complex,
Virudhachalam,
Cuddalore District.

5.The Deputy Superintendent of Police,
Neyveli Township, Block-2
Neyveli,
Cuddalore District.

6.The Inspector of Police,
Mantharakuppam Police Station,
Mantharakuppam,
Neyveli-2,
Cuddalore District.

7.The Tahsildar,
Virudhachalam Taluk,
Virudhachalam,
Cuddalore District.

.. Respondents

This writ petition is preferred under Article 226 of the Constitution of India praying for the issue of a writ of mandamus directing the respondents to cooperate among themselves and fix a convenient date for carrying out the eviction of encroachments in the National Highways at S.Nos.215 & 216, Vadakkuvellure Village, Virudhachalam Taluk, Cuddalore District and carry out the eviction of said encroachments pursuant to the final order dated 14.10.2014 passed by the 3rd respondent under Section 28(2)(ii) of the Tamilnadu Highways Act 2001 within the time fixed by the Court.

For Petitioner : Mr.P.Mani

For Respondents : Mr.P.S.Sivashanmugasundaram, Spl.G.P.

ORDER

(Order of the Court was made by SATISH K. AGNIHOTRI, J.)

The petitioner by this petition seeks judicial intervention on the ground of the alleged nonfeasance on the part of the authorities.

2. According to the learned counsel for the petitioner, the Assistant Divisional Engineer(A/IC), Virudhachalam issued a communication dated 24.10.2014 addressed to the Tahsildar, Virudhachalam Taluk to remove the encroachment in between the land in S.No.211/2B, Vadakkuvellur and the National Highway in S.Nos.215 and 216, Vadakkuvellur. Thereafter, a communication was sent to the Deputy Superintendent of Police also on 27.10.2014 to ensure removal of encroachment on 03.11.2014. Subsequently, a letter was sent to the Inspector of Police, Mandarakuppam, Neyveli on 17.11.2014 seeking a date for providing police protection and their cooperation in removing the encroachment. But, no action has been taken till date. Thus, the petitioner seeks a direction to the respondents to ensure that the alleged encroachment, which has been found by the authorities on proper inspection, be removed forthwith.

3. The alleged encroachers are not parties before us. We do not know as to whether encroachers have been afforded an opportunity of hearing before the notice dated 14.10.2014 under the provisions of Section 28(2)(ii) of the Tamil Nadu Highways Act, 2001 was issued. If the authorities have come to a conclusion that there is clear encroachment on the land in question, after affording proper opportunity of hearing to the alleged encroachers, the authorities are directed to take immediate action in accordance with law for removal of the alleged encroachment within a period of two weeks from the date of receipt of a copy of this order. This writ petition is, accordingly, disposed of. No costs.

Sd/-
Assistant Registrar
Dated:5.2.15

True Copy

Sub Assistant Registrar

To

- 1.The Secretary,
The Government of Tamilnadu,
Highways Department,
Fort St.George,
Chennai-600 009.
- 2.The Superintending Engineer,
National Highways Department,
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Omalur Main Road,
Salem-4
Salem District.
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- 5.The Deputy Superintendent of Police,
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6.The Inspector of Police,
Mantharakuppam Police Station,
Mantharakuppam,
Neyveli-2,
Cuddalore District.

7.The Tahsildar,
Virudhachalam Taluk,
Virudhachalam,
Cuddalore District.

+1 cc to Mr.P.Mani, Advocate,SR.3757

+1 cc to Government Pleader,SR.3169.

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