

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2015

CORAM

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

W.P.No.2593 of 2015
and
M.P.No.1 of 2015

T.Tilakavathi

... Petitioner

Vs.

1. The State of Tamil Nadu,
represented by the Secretary to Government,
State Highways Department,
Secretariat,
Chennai-600 009.
2. Superintending Engineer,
Highways Department,
Salem HO-636 001.
3. Assistant Divisional Engineer,
Highways Department,
Tiruchengodu HO-637 200
4. Divisional Engineer,
Highways Department,
Namakkal HO-637 001.
5. The District Collector,
Namakkal.
6. The Revenue Divisional Officer,
Tiruchengodu, Namakkal.
7. Tahsildar,
Tiruchdngodu,
Namakkal District.

8. P.Pazhamalai
9. N.Chellamuthu
10.N.Mani
11.S.Anandhan
12.A.Santha
13.A.Sundaram
14.K.Rasu
15.P.Seerangan
16.M.Subramaniam
17.K.Paapai Ammal
18.S.Jaya

... Respondents

The writ petition is filed under Article 226 of the Constitution of India to issue a Writ of mandamus directing the respondents 1 to 7 to pass appropriate orders under the Tamil Nadu Highways Act, 2001 against encroachments made by respondents 8 to 18 on State Highways land, abutting the petitioner's property contained in Survey Nos.199/2A, 199/2B, 199/2C, 199/2D, 199/2E in Tiruchengodu Municipal Town Ward D, which have disrupted the ingress and egress from the petitioner's property.

For Petitioner : Mr.Suhrith Parthasarathy

For Respondents : Mr.P.S.Sivashanmugasundaram,
Spl.G.P. for RR1 to 7
Mr.I.Charles for Mr.P.Mani
for RR9 to 11, 14 to 16, 18
No ready notice - RR8,12,13 and 17

ORDER

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

The petitioner by this petition seeks a direction to the respondents 1 to 7 to pass appropriate orders under the Tamil Nadu Highways Act, 2001 against encroachments made by respondents 8 to 18 on State Highways land, abutting the petitioner's property contained in Survey Nos.199/2A, 199/2B, 199/2C, 199/2D, 199/2E in Tiruchengodu Municipal Town Ward D, which have disrupted the ingress and egress from the petitioner's property.

2. Pursuant to the notice issued by this Court, the third respondent, i.e., Assistant Divisional Engineer, Highways Department, Tiruchengodu, has filed a counter affidavit, as under :

"3.It is humbly submitted that as per G.O.129 dated 17.3.2004 the Tiruchengodu Municipality handed over the lands and Roads mentioned in the affidavit to the Highways Department herein. It is humbly submitted that the details of the encroached made in the road was given to the third respondent on 23.2.2015. On receipt of the details the third respondent herein issued notice Ku.Number 5/15/E/Nee/u.dated 23.2.2015 under Sec.28(2) (ii) of the Tamil Nadu State Highways Act 2001 to the respondents 8 to 18 herein by giving 7 days notice to submit his explanation."

3. Relying on the said averment, the learned Special Government Pleader, appearing for the third respondent, would submit that the notice under Section 28(2)(ii) of the Tamil Nadu State Highways Act, 2001 has been issued on 23.2.2015 to the alleged encroachers, i.e., respondents 8 to 18, granting seven days time to submit their explanation. The time has not yet come to an end. The third respondent will take all steps required under the provisions of law to ensure that no encroachment continues on the Highways as pointed out by the learned counsel for the petitioner.

4. The learned counsel appearing for the private respondents have no objection to such exercise, as the private respondents have an opportunity to present their case before the authorities.

5. We accordingly direct the official respondents to take all necessary steps for removal of encroachment if it is found, on proper enquiry after consideration of the representation made by the alleged encroachers pursuant to the notice dated 23.2.2015. The entire exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order. Accordingly, this writ petition is disposed of. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Asst. Registrar

/true copy/

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Sub Asst. Registrar.

vvk

To

1. The Secretary to Government,
The State of Tamil Nadu,
State Highways Department,
Secretariat,
Chennai-600 009.
2. Superintending Engineer,
Highways Department,
Salem HO-636 001.
3. Assistant Divisional Engineer,
Highways Department,
Tiruchengodu HO-637 200
4. Divisional Engineer,
Highways Department,
Namakkal HO-637 001.
5. The District Collector,
Namakkal.
6. The Revenue Divisional Officer,
Tiruchengodu, Namakkal.
7. Tahsildar,
Tiruchdngodu,
Namakkal District.

+lcc to Mr.P.Solomon Francis, Advocate, S.R.No.10945
+lcc to Mr.Suhrith Parthasarathy, Advocate, S.R.No.10640
+lcc to Mr.P.Mani, Advocate, S.R.No.10642
+lcc to the Government Pleader, S.R.No.10791

W.P.No.2593 of 2015

BR(CO)
CA(09/03/2015)

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