

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.10.2015

CORAM

THE HON'BLE Mr. JUSTICE M.M.SUNDRESH

W.P.No.37710 & 37711 of 2003
& WPMP Nos.45809 & 45810 of 2003 and WVMP.Nos.1 & 2 of 2015

P.Ganapathy

.. Petitioner in
W.P.37710/2015

C.Durairaj
in

.. Petitioner
W.P.37711/2015

Vs.

The Assistant Divisional Engineer,
Highways and Rural Development Department,
Erode-2.

... Respondent in
both WPs.

Petitions are filed under Article 226 of The Constitution of India praying to issue a writ of certiorari to call for the entire records in so far relates to impugned order passed by the respondent in his Proceedings No.Nil dated 15.12.2003 and quash the same.

For Petitioner : Mr.C.Prakasam
in both WPs.

For Respondents : Mr.P.Sanjay Gandhi
in both WPs. Addl. Govt. Pleader

WEB COPY
COMMON ORDER

The petitioners have come forward to file these writ petitions challenging the impugned proceedings dated 15.12.2003 by which, notices were issued to vacate the encroached portions, failing which the consequences would follow.

2. The learned counsel appearing for the petitioners submitted that suits were filed by the petitioners in O.S.Nos. 52 and 80 of 1999 on the file of I Additional District Munsif Court, Erode. As the said suits have been dismissed, Appeals

in A.S.Nos.60 and 61 of 2002 were preferred by the petitioners, which were allowed in part by the Principal District Judge, Erode. Therefore, the orders impugned cannot be sustained in the eye of law.

3. Per contra, the learned Additional Government Pleader appearing for the respondent submitted that the subject matter of the suit properties have not been touched. What is sought to be removed is only encroached portion. The petitioners have encroached upon the highway land. Therefore, no interference is required.

4. A perusal of the judgments and decrees rendered by the Civil Court would show that it is with respect to the Survey Nos.130/2 and 130/3 of Punjai Kalamangalam Village, Erode Taluk, Erode District. Now, the petitioners are sought to be evicted from the land in Survey Nos.131 and 612 of Punjai Kalamangalam Village, Erode Taluk, Erode District and it was done in pursuant to the survey work done with respect to survey Nos.131, 287, 607 and 612. As the impugned orders are passed in respect of the lands alleged to have been encroached by the petitioners and are not the subject matter of the lands in judgments and decrees of the Civil Court, no interference can be made with respect of the orders impugned. In such view of the matter, both the writ petitions stand dismissed. No costs. Consequently, all the miscellaneous petitions are also dismissed.

-Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

To

The Assistant Divisional Engineer,
Highways and Rural Development Department,
Erode-2.

+1 cc to Government Pleader(sr.54717)

W.P.No.37710 & 37711
of 2003

RSK(co)
cp 16/10/2015