

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.NOS.14799 AND 14920 OF 2016

AND WMP NOS.12946 AND 13042 OF 2016

A.Jayaraj ... Petitioner in
W.P.No.14799/2016
A.Vijayakumar ... Petitioner in
W.P.No.14920/2016

Versus

- 1.Union of India,
Rep. by Secretary
Ministry of Transport and Highways Department
New Delhi.
- 2.The Project Director
Project Implementation Unit
National Highways Authority of India
Old No.28/1, New No.51/2, 50 Feet Road,
Krishnaswamy Nagar,
Gem Hospital (Backside)
Ramanathapuram,
Coimbatore - 641 018.
- 3.The Assistant Divisional Engineer
National Highways,
Avinashi Road,
Coimbatore.
- 4.The Regional Director of Municipalities
Collectorate,
Tiruppur,
Tiruppur District.
- 5.The Tahsildar
Udumalpet Taluk,
Udumalpet.
- 6.The Revenue Divisional Officer
Udumalpet,
Tiruppur District.

7.The Commissioner
Udumalpet Municipality,
Udumalpet.

.. Respondents in
both WPs'

PRAYER: Writ Petitions are filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, to direct the respondents particularly respondents 1, 2, 3 and 7 not to initiate any proceedings to acquire or enter into the land and building owned by the petitioner at Door No.222/1 and Door No.220 respectively, at Palani Road, Udumalpet, Tiruppur District, without following the procedures as contemplated under the relevant Act.

For Petitioner : Mr.T.Thiyagarajan
For M/s.Waraon and Sai Rams

For Respondent - 2 : Mr.Richardson
For M/s.P.Wilson & Associates

For Respondents : Mr.Roofus Abraham
4 to 6 Government Advocate

For Respondent - 7: Mr.A.S.Thambusamy
and Mr.B.Anand

C O M M O N O R D E R

Heard Mr.T.Thiyagarajan, representing M/s.Waraon and Sai Rams, learned counsel appearing for the petitioners; Mr.Richardson, representing M/s.P.Wilson & Associates, learned counsel accepting notice on behalf of the second respondent; Mr.Roofus Abraham, learned Government Advocate, accepting notice on behalf of the respondents 4 to 6 and Mr.A.S.Thambusamy, representing Mr.B.Anand, learned counsel accepting notice on behalf of the seventh respondent.

2.The learned counsel appearing on either side submitted that the issue involved in these writ petitions are squarely covered by the earlier order passed by this Court in W.P.Nos.12890, 13004, 13005, 13143, 13242, 13243 and 13607 of 2016 dated 12.04.2016. The operative portion of the order reads as follows:

"7.The petitioners had serious apprehension that their buildings will be pulled down by the respondents and they expressed serious concern and the manner in which the Udumalpet Municipality has been going ahead in the matter. Therefore, the Court entertained the

Writ Petitions and gave them a protective status quo order. However, it is made clear that this protection was restricted only to such a those petitioners who had approached this Court and it is not a blanket order restraining the respondents from proceeding with the project.

8. In the light of the submission made by the learned counsel for the National Highways, on instructions, it is clear that the petitioners need not have any apprehension that their buildings will be pulled down as in one section feasibility survey is being done and the other section work is to be done by the State Highways Wing and both these works shall be done strictly under the provisions of the National Highways Act.

9. So far as the action to be initiated by the Udumalpet Municipality is concerned, there cannot be any fetters on the power exercised by the Commissioner or by the Municipal Council under the provisions of the District Municipalities Act. But, it goes without saying that whenever action is being initiated by the Municipality, it shall be in accordance with law after due notice to the parties.

10. Thus, with the above observations, these Writ petitions stand disposed of, making it clear that the National Highways shall proceed with the project strictly adhering to the provisions of the National Highways Act. Likewise, the respondent-Municipality also, if they intend to take any action with regard to any unauthorized construction or encroachment, they shall also follow the procedure under the District Municipalities Act and the Rules framed therein. Once again, it is made clear that this order shall enure the benefit of the petitioners alone. No costs. Consequently, connected miscellaneous petitions are closed."

3. Following the above orders, these writ petitions are also disposed of, on the above lines. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

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To

- 1.The Secretary,
Government of India
Ministry of Transport and Highways Department,
New Delhi.
- 2.The Project Director
Project Implementation Unit
National Highways Authority of India
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Collectorate, Tiruppur,
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- 5.The Tahsildar,
Udumalpet Taluk, Udumalpet.
- 6.The Revenue Divisional Officer,
Udumalpet, Tiruppur District.
- 7.The Commissioner,
Udumalpet Municipality,
Udumalpet.

+2 ccs to The Government Pleader, sr.25398, 25421
+2 ccs to M/s.Waraon & Sairams, Advocates, sr.25093&25092
+1 cc to M/s.P.Wilson Associates, Advocates, sr.25313&25314
+1 cc to M/s.A.S.Thambusamy, Advocate, sr.25489

W.P.NOS.14799 AND 14920 OF 2016

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kra 03.05.2016