

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2016

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.24268 of 2016

S.C.Balakrishnan

... Petitioner

Vs.

- 1 The Commissioner
Palladam Municipality,
Palladam,
Tiruppur District.
 - 2 The Divisional Engineer,
Highways Department,
Dharapuram,
Tiruppur District.
 - 3 The Assistant Divisional Engineer,
Highways Department,
Palladam,
Tiruppur District.
 - 4 The Tahsildar,
Palladam Taluk,
Tiruppur District.
- ... Respondent

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the respondents 1 to 4 from interfering with the petitioner's Right to property measuring 692 sq.ft. bearing Patta No. 1326 comprised in S. No.600/1, Naranapuram Village, Palladam Taluk, Tiruppur District till the property is surveyed and boundary line is fixed under the provisions of the Tamil Nadu Highways Act, 2001 or any other law time being in force, by considering the petitioners representation dated 07.07.2016.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.S.V.Doraisolaimalai for R1
Government Advocate
Mr.R.Govindasamy for R2 to R4
Special Government Pleader

O R D E R

By consent, the writ petition is taken up for final disposal.

2.The petitioner claims to be the absolute owner of the property admeasuring 692 sq.ft. in S.No.600/1, Naranapuram Village, Palladam Taluk, Tiruppur District through a registered sale deed bearing document no.8550/2014, dated 15.07.2014 and patta no.1326 also stands in the name of the vendors.

3.The petitioner would further state that a superstructure was put up even prior to the year 1977 and the petitioner has let out two shops and retained one shop for his own purpose and obtained electricity service connection and the said property is also subject to statutory levies.

4.The grievance expressed by the petitioner is that on 29.06.2016, the officials attached to the office of the respondents 2 and 3, without putting on notice the petitioner, started marking on the property on the pretext that the petitioner had encroached on the road margin.

5.Mr.N.Manokaran, learned counsel appearing for the petitioner has drawn the attention of this Court to the typed set of papers and would submit that the respondents appear to be proceeding under the provisions of the Tamil Nadu Highways Act, 2001 and unless and until they are of the view that the petitioner has encroached the road margin, they may not do so and they have to follow Chapter III of the Tamil Nadu Highways Act, 2001 and without doing so, started interfering with the petitioner's peaceful possession and enjoyment of the property and prayed for appropriate orders.

6.This Court also heard the submissions of Mr.S.V.Doraisolaimalai, learned Government Advocate who accepts notice on behalf of the first respondent and Mr.R.Govindasamy, learned Special Government Pleader who accepts notice on behalf of the respondents 2 to 4.

7.If at all the respondents 2 and 3 want to remove the encroachment, they have to follow the procedure contemplated under the Tamil Nadu Highways Act, 2001 and the Rules framed thereunder.

8.In the light of the above facts and circumstances, this Court without going into the merits of the claim projected by the petitioner directs the respondents 2 and 3 to follow the provisions of Tamil Nadu Highways Act, 2001 and the Rules framed thereunder and take appropriate action. In the event, if they are of the view that the superstructure constitutes an encroachment and till such time, they take a decision in accordance with the said Act, the possession of the

petitioner, shall not be disturbed. It is also made clear that till such time, the petitioner shall not create any third party right in respect of the property in question.

9.The writ petition is disposed of accordingly. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

- 1 The Commissioner
Palladam Municipality,
Palladam,
Tiruppur District.
- 2 The Divisional Engineer,
Highways Department,
Dharapuram,
Tiruppur District.
- 3 The Assistant Divisional Engineer,
Highways Department,
Palladam,
Tiruppur District.
- 4 The Tahsildar,
Palladam Taluk,
Tiruppur District.

+1 CC to Mr.N.Manokaran, Advocate Sr.No.39658

+1 CC to Government Pleader, Advocate Sr.No.39686

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KJI(CO)
KP(29.07.2016)