



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.12.2016

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THE HON'BLE MR.JUSTICE A.SELVAM

and

THE HON'BLE MR.JUSTICE P.KALAIYARASANW.P(MD) No.10410 of 2011

K.Paulpillai

... Petitioner

-vs-

1.The District Collector,
Nagercoil,
Kanyakumari District.

2.The Divisional Engineer,
Highways, Nagercoil,
Kanyakumari District.

3.Thangappan

4.Gracy

5.Meenatchi

6.Kumaresan

7.Murugan

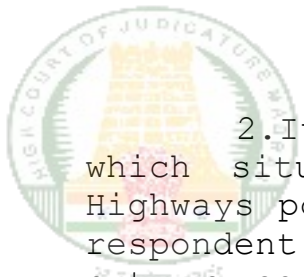
... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents 1 and 2 herein to remove the encroachments made by the respondents 3 to 7 in R.Sy.No.390/2 after demolishing the construction put up by the respondents 3 to 7 in R.Sy.No.390/2.

For Petitioner	: Mr.V.M.Balamohan Thambi
For RR - 1 & 2	: Mr.G.Velmurugan
	Government Advocate
For R - 4	: Mr.V.Sasi Kumar
For RR - 3, 5 to 7	: No appearance

O R D E R

This Writ Petition has been filed under Article 226 of the Constitution of India praying to issue necessary direction to the respondents 1 and 2 in the form of Writ of Mandamus to remove the encroachments alleged to have been made by the respondents 3 to 7 in R.Sy.No.390/2, Thirparappu Village, Kanyakumari District.



2.It is averred in the petition that Re Survey No.390/2, which situates in Thirparappu Village has been classified as Highways poramboke and the same is under the control of the second respondent. But the respondents 3 to 7 have made encroachments and put up constructions. Under the said circumstances, the present writ petition has been filed for getting the relief sought therein.

3.The learned counsel appearing for the petitioner has contended to the effect that even though a representation has been given to the respondents 1 and 2 to remove the encroachments alleged to have been made in Re Survey No.390/2, the respondents 1 and 2 have not taken any effective steps. Under the said circumstances, the present writ petition has been filed for getting the relief sought therein.

4.The learned Government Advocate appearing for the respondents 1 and 2 has also candidly admitted to the effect that in Re Survey No.390/2 certain encroachments are in existence and made necessary arrangements to remove the same.

5.The learned counsel appearing for the respondents 3 to 7 has contended to the effect that there is no encroachment in Re Survey No.390/2 and therefore, the relief sought in the petition cannot be granted and altogether, the present writ petition deserves to be dismissed.

6.In fact, this Court has perused the counter filed on the side of the second respondent, wherein it has been clinchingly stated to the effect that in Re Survey No.390/2, certain encroachments are in existence.

7.Considering the fact that Re Survey No.390/2 belongs to Highways Department and also considering the materials found in the counter filed on the side of the second respondent, this Court is of the view to pass the following order:

8.In fine, this writ petition is allowed without cost. The respondents 1 and 2 are strictly directed to remove encroachments if any made in Re Survey No.390/2, after giving proper opportunities to the persons concerned, within a period of three months.

Sd/-

Assistant Registrar(AS)

/True Copy/



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To

1.The District Collector,
Nagercoil,
Kanyakumari District.

2.The Divisional Engineer,
Highways, Nagercoil,
Kanyakumari District.

+1cc to Mr.V.M.Bala Mohan Thambi Advocate Sr.No. 79549

+1cc to Mr.V.Sasikumar Advocate Sr.No. 79334

+1cc to Spl.Government Pleader Sr.No.79878

JAM/21.12.16/SS 3/SAR i/3p-6c

W.P (MD) No.10410 of 2011
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