

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:21.12.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE SATRUGHANA PUJAHARI

WP No.33433/2017

D.Kaliyaperumal

..

Petitioner

Vs

1.The Secretary to Government
State of Tamil Nadu,
Highways and Minor Ports Department
Secretariat, Chennai-9.

2.The Director General of Highways
Guindy, Chennai-25.

3.The District Collector
Cuddalore, Cuddalore District.

4.The Divisional Engineer
Highways and Rural Road
Cuddalore, Cuddalore District.

5.The Assistant Divisional Engineer
Highways, Tittakudi, Cuddalore District.

6.The Tahsildar
Tittagudi, Cuddalore District.

7.E.Thangarasu

8.Tmt.Pachaiammal

9.Tmt.Sumathi

10.Tmt.Dhanam
 11.Tmt.Kathayee
 12.R.Chellamuthu

.. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of mandamus directing the respondents 1 to 6 to consider the claims of the petitioner and pass orders on the representation of the petitioner dated 27.10.2017 in regard to eviction of the encroachers from the Highways land as per the Highways Act.

For Petitioner : Mr.G.Ilanchezhiyan
 For R1 to R6 : Mr.A.N.Thambidurai, Spl.GP

ORDER

[Order of the Court was delivered by M.SATHYANARAYANAN, J.]

By consent, the writ petition is taken up for final disposal. Mr.A.N.Thambidurai, learned Special Government Pleader accepts notice on behalf of the respondents 1 to 6.

2 The petitioner claims that he is a lessee of the land admeasuring to an extent of 1.46 acres comprised in S.No.19/7, of Thuraiyur Village, Thittakudi Taluk, Cuddalore District and the said land belongs to Arulmighu Vridhagriswarar temple and the petitioner has leased the land by way of sub-lease in favour of one Thiagarajan and the learned counsel on instructions, would submit that as on today, the

petitioner is not having any arrears of rent due and payable to the said temple. The petitioner would further add that one Mr.Ramalingam, had encroached upon the land belonging to the said temple and converted into layout and sold out the same to the respondents 7 to 12 and in this regard, he has filed OS.No.436/1979 on the file of the Court of District Munsif, Virudhachalam and re-numbered as OS.NO.13/1996 to evict the encroacher from the temple land and it was decreed on 28.04.2003. However, no compensation was awarded by the Trial Court and in this regard, he filed an appeal in AS.NO.102/2003 on the file of the Court of the Subordinate Judge, Virudhachalam and it was allowed on 21.04.2006 and in order to execute the decree he filed the Execution Application and it was allowed and CRP.No.945/2010 was filed by one Thangarasu and it was also dismissed by this Court on 23.02.2011.

3 The grievance expressed by the petitioner is that the encroachers have not only encroached upon the temple land ; but also encroached upon the Highways land to an extent of 25 feet in RS.Nos.20 and 25 of Thuraiyur Village, Thittakudi Taluk, Cuddalore District, and the said land lies between KM 13/2 and KM 13/4 from Vridhachalam and Tittakudi Road, via Thuraiyur Village. The petitioner in this regard, has submitted a representation dated 27.10.2017 to the

respondents and the 5th respondent, in his communication dated 09.11.2017 in Letter No.25/2017/,/ep/c/. has directed the 6th respondent to survey and mark the land.

4 The learned counsel for the petitioner would submit that however, the 6th respondent is yet to consider the said request made by the 5th respondent and as a consequence, further encroachments are taking place on the road margin of the State Highways and therefore, the petitioner is constrained to approach this Court by filing the present writ petition.

5 The Court heard the submissions of Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the respondents 1 to 6 and also perused the materials placed before it.

6 Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, directs the 6th respondent to act on the communication of the 5th respondent dated 09.11.2017 in Letter No.25/2017/,/ep/c/, and submit a report to the 5th respondent within a period of three weeks from the date of

receipt of a copy of this order and depending upon the communication to be sent by the 6th respondent, the 5th respondent shall consider and dispose of the representation dated 27.10.2017 submitted by the petitioner, on merits and in accordance with law and pass appropriate orders within a further period of eight weeks from the date of receipt of the communication from the 6th respondent herein and communicate the decision taken, to the petitioner herein.

7 The writ petition stands disposed of with the above direction. No costs.

[M.S.N., J] [S.P.I., J]
21.12.2017

Internet : Yes
AP
To

- 1.The Secretary to Government
State of Tamil Nadu,
Highways and Minor Ports Department
Secretariat, Chennai-9.
- 2.The Director General of Highways
Guindy, Chennai-25.
- 3.The District Collector
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Tittagudi, Cuddalore District.

M.SATHYANARAYANAN.,J.,
and
SATRUGHANA PUJAHARI.,J.,
AP



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