

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 10.10.2017
CORAM

THE HONOURABLE Mr.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

W.P.Nos.26527 to 26548 of 2017
and WMP.Nos.28241 to 28262 of 2017

1.P.Anbazhagan	.. Petitioner in WP.No.26527 of 2017
2.Marimuthu	.. Petitioner in WP.No.26528 of 2017
3.A.Kumar	.. Petitioner in WP.No.26529 of 2017
4.Mariyappan	.. Petitioner in WP.No.26530 of 2017
5.Sundaram	.. Petitioner in WP.No.26531 of 2017
6.Narayanan	.. Petitioner in WP.No.26532 of 2017
7.Natarajan	.. Petitioner in WP.No.26533 of 2017
8.Kuttyammal	.. Petitioner in WP.No.26534 of 2017
9.Krishnamoorthy	.. Petitioner in WP.No.26535 of 2017
10.Arumugam	.. Petitioner in WP.No.26536 of 2017
11.Vadivel	.. Petitioner in WP.No.26537 of 2017
12.K.G.Murugesan	.. Petitioner in WP.No.26538 of 2017
13.S.Sengottian	.. Petitioner in WP.No.26539 of 2017
14.Sidhayee	.. Petitioner in WP.No.26540 of 2017
15.Saravanan	.. Petitioner in WP.No.26541 of 2017
16.Krishnamoorthy	.. Petitioner in WP.No.26542 of 2017
17.R.Gurusamy	.. Petitioner in WP.No.26543 of 2017
18.P.Thangarasu	.. Petitioner in WP.No.26544 of 2017
19.A.M.Pongiyannan	.. Petitioner in WP.No.26545 of 2017
20.A.R.Babu	.. Petitioner in WP.No.26546 of 2017
21.Shanthi	.. Petitioner in WP.No.26547 of 2017
22.A.S.Murugesan	.. Petitioner in WP.No.26548 of 2017

Vs.

1.The District Collector
Erode,
Erode District.

2.The Tahsildar,
Taluk Office,
Anthiyur, Erode District.

3.The Assistant Divisional Engineer,
Highways Department (B & M)
Bhavani, Erode District. .. Respondents
in all Wps

Common Prayer : Writ Petitions filed under Section 226 of Constitution of India praying to issue a Writ of Mandamus, to call for entire records pertaining to the proceedings No.Nil, dated 28.09.2017, issued by the third respondent and quash the same as illegal, without jurisdiction and consequently direct the respondents 1 and 2 to provide "Natham Patta" in S.F.No.422/1, to their houses at (i) Door Nos.20, New No.21 (ii) Door No.43, New No.41 (iii) Door No.27, New No.23 (iv) Door No.30, New No.33, (v) Door No.173, New No.173 (vi) Door No.24, New No.24-A (vii) Door No.36A, New No.26 (viii) Door No.1, New No.44 (ix) Door No.37, New No.25 (x) Door No.28, New No.35 (xi) Door No.21, New No.22 (xii) Door No.48, New No.46 (xiii) Door No.1/49A, New No.1/49A (xiv) Door No.18, New No.34 (xv) Door No.28, New No.35 (xvi) Door No.25, New No.37 (xvii) Door No.33, New No.25 (xviii) Door No.42 (xix) Door No.35, New No.35 (xx) Door No.70 (xxi) Door No.48C, New No.55 (xxii) Door No.130-A, New No.130-B respectively at Odaimedu, Thiruvalluvar Nagar, Athani Village, Anthiyur Taluk, Erode District.

For Petitioners : Mr.V.Lakshmi Narayanan
(in all cases) for Mr.Ma.P.Thangavel

For Respondents : Mr.A.N.Thambidurai
(in all cases) Special Government Pleader

C O M M O N O R D E R

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

By consent, all the writ petitions are taken up for final disposal. Since the issue involved and to be adjudicated in the above writ petitions is one and the same, the said writ petitions are disposed of by a common order.

2. [a] W.P.No.26527 of 2017 : The petitioner claims to be the resident in Survey No.422/1, Door No.20, New No.21, Odaimedu, Thiruvalluvar Nagar, Athani Village, Anthiyur Taluk, Erode District, which is located on the northern side of the Sathyamangalam to Athani State Highways, and he has been living there for decades together along with his family and like him, thirty other families also reside there. The petitioner would state that he belonged to the Scheduled Caste Community and to eke out his livelihood, he is doing agricultural coolie work and the superstructure in which he is residing is assessed to property tax and other statutory levies and the Local Body has also provided the basic amenities to him and other residents of the said locality. The petitioner would further state that to his shock and surprise, he has been issued with a show cause notice by the third respondent under Section 28(2)(ii) of the Tamil Nadu Highways Act, 2001 and challenging the legality of

the same, he has filed the present writ petition.

[b] W.P.No.26528 of 2017 : The petitioner claims to be the resident in Survey No.422/1, Door No.43, New No.41, Odaimedu, Thiruvalluvar Nagar, Athani Village, Anthiyur Taluk, Erode District, which is located on the northern side of the Sathyamangalam to Athani State Highways, and he has been living there for decades together along with his family and like him, thirty other families also reside there. The petitioner would state that he belonged to the Scheduled Caste Community and to eke out his livelihood, he is doing agricultural coolie work and the superstructure in which he is residing is assessed to property tax and other statutory levies and the Local Body has also provided the basic amenities to him and other residents of the said locality. The petitioner would further state that to his shock and surprise, he has been issued with a show cause notice by the third respondent under Section 28(2)(ii) of the Tamil Nadu Highways Act, 2001 and challenging the legality of the same, he has filed the present writ petition.

[c] W.P.No.26529 of 2017 : The petitioner claims to be the resident in Survey No.422/1, Door No.27, New No.23, Odaimedu, Thiruvalluvar Nagar, Athani Village, Anthiyur Taluk, Erode District, which is located on the northern side of the Sathyamangalam to Athani State Highways, and he has been living there for decades together along with his family and like him, thirty other families also reside there. The petitioner would state that he belonged to the Scheduled Caste Community and to eke out his livelihood, he is doing agricultural coolie work and the superstructure in which he is residing is assessed to property tax and other statutory levies and the Local Body has also provided the basic amenities to him and other residents of the said locality. The petitioner would further state that to his shock and surprise, he has been issued with a show cause notice by the third respondent under Section 28(2)(ii) of the Tamil Nadu Highways Act, 2001 and challenging the legality of the same, he has filed the present writ petition.

[d] W.P.No.26530 of 2017 : The petitioner claims to be the resident in Survey No.422/1, Door No.30, New No.33, Odaimedu, Thiruvalluvar Nagar, Athani Village, Anthiyur Taluk, Erode District, which is located on the northern side of the Sathyamangalam to Athani State Highways, and he has been living there for decades together along with his family and like him, thirty other families also reside there. The petitioner would state that he belonged to the Scheduled Caste Community and to eke out his livelihood, he is doing agricultural coolie work and the superstructure in which he is residing is assessed to property tax and other statutory levies and the Local Body has also provided the basic amenities to him and other residents of

the said locality. The petitioner would further state that to his shock and surprise, he has been issued with a show cause notice by the third respondent under Section 28(2)(ii) of the Tamil Nadu Highways Act, 2001 and challenging the legality of the same, he has filed the present writ petition.

[e] W.P.No.26531 of 2017 : The petitioner claims to be the resident in Survey No.422/1, Door No.173, New No.173, Odaimedu, Thiruvalluvar Nagar, Athani Village, Anthiyur Taluk, Erode District, which is located on the northern side of the Sathyamangalam to Athani State Highways, and he has been living there for decades together along with his family and like him, thirty other families also reside there. The petitioner would state that he belonged to the Scheduled Caste Community and to eke out his livelihood, he is doing agricultural coolie work and the superstructure in which he is residing is assessed to property tax and other statutory levies and the Local Body has also provided the basic amenities to him and other residents of the said locality. The petitioner would further state that to his shock and surprise, he has been issued with a show cause notice by the third respondent under Section 28(2)(ii) of the Tamil Nadu Highways Act, 2001 and challenging the legality of the same, he has filed the present writ petition.

[f] W.P.No.26532 of 2017 : The petitioner claims to be the resident in Survey No.422/1, Door No.24, New No.24-A, Odaimedu, Thiruvalluvar Nagar, Athani Village, Anthiyur Taluk, Erode District, which is located on the northern side of the Sathyamangalam to Athani State Highways, and he has been living there for decades together along with his family and like him, thirty other families also reside there. The petitioner would state that he belonged to the Scheduled Caste Community and to eke out his livelihood, he is doing agricultural coolie work and the superstructure in which he is residing is assessed to property tax and other statutory levies and the Local Body has also provided the basic amenities to him and other residents of the said locality. The petitioner would further state that to his shock and surprise, he has been issued with a show cause notice by the third respondent under Section 28(2)(ii) of the Tamil Nadu Highways Act, 2001 and challenging the legality of the same, he has filed the present writ petition.

[g] W.P.No.26533 of 2017 : The petitioner claims to be the resident in Survey No.422/1, Door No.36-A, New No.26, Odaimedu, Thiruvalluvar Nagar, Athani Village, Anthiyur Taluk, Erode District, which is located on the northern side of the Sathyamangalam to Athani State Highways, and he has been living there for decades together along with his family and like him, thirty other families also reside there. The petitioner

would state that he belonged to the Scheduled Caste Community and to eke out his livelihood, he is doing agricultural coolie work and the superstructure in which he is residing is assessed to property tax and other statutory levies and the Local Body has also provided the basic amenities to him and other residents of the said locality. The petitioner would further state that to his shock and surprise, he has been issued with a show cause notice by the third respondent under Section 28(2)(ii) of the Tamil Nadu Highways Act, 2001 and challenging the legality of the same, he has filed the present writ petition.

[h] W.P.No.26534 of 2017 : The petitioner claims to be the resident in Survey No.422/1, Door No.1, New No.44, Odaimedu, Thiruvalluvar Nagar, Athani Village, Anthiyur Taluk, Erode District, which is located on the northern side of the Sathyamangalam to Athani State Highways, and he has been living there for decades together along with his family and like him, thirty other families also reside there. The petitioner would state that he belonged to the Scheduled Caste Community and to eke out his livelihood, he is doing agricultural coolie work and the superstructure in which he is residing is assessed to property tax and other statutory levies and the Local Body has also provided the basic amenities to him and other residents of the said locality. The petitioner would further state that to his shock and surprise, he has been issued with a show cause notice by the third respondent under Section 28(2)(ii) of the Tamil Nadu Highways Act, 2001 and challenging the legality of the same, he has filed the present writ petition.

[i] W.P.No.26535 of 2017 : The petitioner claims to be the resident in Survey No.422/1, Door No.37, New No.25, Odaimedu, Thiruvalluvar Nagar, Athani Village, Anthiyur Taluk, Erode District, which is located on the northern side of the Sathyamangalam to Athani State Highways, and he has been living there for decades together along with his family and like him, thirty other families also reside there. The petitioner would state that he belonged to the Scheduled Caste Community and to eke out his livelihood, he is doing agricultural coolie work and the superstructure in which he is residing is assessed to property tax and other statutory levies and the Local Body has also provided the basic amenities to him and other residents of the said locality. The petitioner would further state that to his shock and surprise, he has been issued with a show cause notice by the third respondent under Section 28(2)(ii) of the Tamil Nadu Highways Act, 2001 and challenging the legality of the same, he has filed the present writ petition.

[j] W.P.No.26536 of 2017 : The petitioner claims to be the resident in Survey No.422/1, Door No.28, New No.35, Odaimedu, Thiruvalluvar Nagar, Athani Village, Anthiyur Taluk, Erode District, which is located on the northern side of the Sathyamangalam to Athani State Highways, and he has been living there for decades together along with his family and like him, thirty other families also reside there. The petitioner would state that he belonged to the Scheduled Caste Community and to eke out his livelihood, he is doing agricultural coolie work and the superstructure in which he is residing is assessed to property tax and other statutory levies and the Local Body has also provided the basic amenities to him and other residents of the said locality. The petitioner would further state that to his shock and surprise, he has been issued with a show cause notice by the third respondent under Section 28(2)(ii) of the Tamil Nadu Highways Act, 2001 and challenging the legality of the same, he has filed the present writ petition.

[k] W.P.No.26537 of 2017 : The petitioner claims to be the resident in Survey No.422/1, Door No.21, New No.22, Odaimedu, Thiruvalluvar Nagar, Athani Village, Anthiyur Taluk, Erode District, which is located on the northern side of the Sathyamangalam to Athani State Highways, and he has been living there for decades together along with his family and like him, thirty other families also reside there. The petitioner would state that he belonged to the Scheduled Caste Community and to eke out his livelihood, he is doing agricultural coolie work and the superstructure in which he is residing is assessed to property tax and other statutory levies and the Local Body has also provided the basic amenities to him and other residents of the said locality. The petitioner would further state that to his shock and surprise, he has been issued with a show cause notice by the third respondent under Section 28(2)(ii) of the Tamil Nadu Highways Act, 2001 and challenging the legality of the same, he has filed the present writ petition.

[l] W.P.No.26538 of 2017 : The petitioner claims to be the resident in Survey No.422/1, Door No.48, New No.46, Odaimedu, Thiruvalluvar Nagar, Athani Village, Anthiyur Taluk, Erode District, which is located on the northern side of the Sathyamangalam to Athani State Highways, and he has been living there for decades together along with his family and like him, thirty other families also reside there. The petitioner would state that he belonged to the Scheduled Caste Community and to eke out his livelihood, he is doing agricultural coolie work and the superstructure in which he is residing is assessed to property tax and other statutory levies and the Local Body has also provided the basic amenities to him and other residents of the said locality. The petitioner would further state that to his shock and surprise, he has been issued with a show cause

notice by the third respondent under Section 28(2)(ii) of the Tamil Nadu Highways Act, 2001 and challenging the legality of the same, he has filed the present writ petition.

[m] W.P.No.26539 of 2017 : The petitioner claims to be the resident in Survey No.422/1, Door No.1/49A, New No.1/49A, Odaimedu, Thiruvalluvar Nagar, Athani Village, Anthiyur Taluk, Erode District, which is located on the northern side of the Sathyamangalam to Athani State Highways, and he has been living there for decades together along with his family and like him, thirty other families also reside there. The petitioner would state that he belonged to the Scheduled Caste Community and to eke out his livelihood, he is doing agricultural coolie work and the superstructure in which he is residing is assessed to property tax and other statutory levies and the Local Body has also provided the basic amenities to him and other residents of the said locality. The petitioner would further state that to his shock and surprise, he has been issued with a show cause notice by the third respondent under Section 28(2)(ii) of the Tamil Nadu Highways Act, 2001 and challenging the legality of the same, he has filed the present writ petition.

[n] W.P.No.26540 of 2017 : The petitioner claims to be the resident in Survey No.422/1, Door No.18, New No.34, Odaimedu, Thiruvalluvar Nagar, Athani Village, Anthiyur Taluk, Erode District, which is located on the northern side of the Sathyamangalam to Athani State Highways, and he has been living there for decades together along with his family and like him, thirty other families also reside there. The petitioner would state that he belonged to the Scheduled Caste Community and to eke out his livelihood, he is doing agricultural coolie work and the superstructure in which he is residing is assessed to property tax and other statutory levies and the Local Body has also provided the basic amenities to him and other residents of the said locality. The petitioner would further state that to his shock and surprise, he has been issued with a show cause notice by the third respondent under Section 28(2)(ii) of the Tamil Nadu Highways Act, 2001 and challenging the legality of the same, he has filed the present writ petition.

[o] W.P.No.26541 of 2017 : The petitioner claims to be the resident in Survey No.422/1, Door No.28, New No.35, Odaimedu, Thiruvalluvar Nagar, Athani Village, Anthiyur Taluk, Erode District, which is located on the northern side of the Sathyamangalam to Athani State Highways, and he has been living there for decades together along with his family and like him, thirty other families also reside there. The petitioner would state that he belonged to the Scheduled Caste Community and to eke out his livelihood, he is doing agricultural coolie work and the superstructure in which he is residing is assessed to property tax and other statutory levies and the Local Body has

also provided the basic amenities to him and other residents of the said locality. The petitioner would further state that to his shock and surprise, he has been issued with a show cause notice by the third respondent under Section 28(2)(ii) of the Tamil Nadu Highways Act, 2001 and challenging the legality of the same, he has filed the present writ petition.

[p] W.P.No.26542 of 2017 : The petitioner claims to be the resident in Survey No.422/1, Door No.25, New No.37, Odaimedu, Thiruvalluvar Nagar, Athani Village, Anthiyur Taluk, Erode District, which is located on the northern side of the Sathyamangalam to Athani State Highways, and he has been living there for decades together along with his family and like him, thirty other families also reside there. The petitioner would state that he belonged to the Scheduled Caste Community and to eke out his livelihood, he is doing agricultural coolie work and the superstructure in which he is residing is assessed to property tax and other statutory levies and the Local Body has also provided the basic amenities to him and other residents of the said locality. The petitioner would further state that to his shock and surprise, he has been issued with a show cause notice by the third respondent under Section 28(2)(ii) of the Tamil Nadu Highways Act, 2001 and challenging the legality of the same, he has filed the present writ petition.

[q] W.P.No.26543 of 2017 : The petitioner claims to be the resident in Survey No.422/1, Door No.33, New No.25, Odaimedu, Thiruvalluvar Nagar, Athani Village, Anthiyur Taluk, Erode District, which is located on the northern side of the Sathyamangalam to Athani State Highways, and he has been living there for decades together along with his family and like him, thirty other families also reside there. The petitioner would state that he belonged to the Scheduled Caste Community and to eke out his livelihood, he is doing agricultural coolie work and the superstructure in which he is residing is assessed to property tax and other statutory levies and the Local Body has also provided the basic amenities to him and other residents of the said locality. The petitioner would further state that to his shock and surprise, he has been issued with a show cause notice by the third respondent under Section 28(2)(ii) of the Tamil Nadu Highways Act, 2001 and challenging the legality of the same, he has filed the present writ petition.

[r] W.P.No.26544 of 2017 : The petitioner claims to be the resident in Survey No.422/1, Door No.42, Odaimedu, Thiruvalluvar Nagar, Athani Village, Anthiyur Taluk, Erode District, which is located on the northern side of the Sathyamangalam to Athani State Highways, and he has been living there for decades together along with his family and like him, thirty other families also reside there. The petitioner would state that he belonged to the Scheduled Caste Community and to

eke out his livelihood, he is doing agricultural coolie work and the superstructure in which he is residing is assessed to property tax and other statutory levies and the Local Body has also provided the basic amenities to him and other residents of the said locality. The petitioner would further state that to his shock and surprise, he has been issued with a show cause notice by the third respondent under Section 28(2)(ii) of the Tamil Nadu Highways Act, 2001 and challenging the legality of the same, he has filed the present writ petition.

[s] W.P.No.26545 of 2017 : The petitioner claims to be the resident in Survey No.422/1, Door No.35, New No.35, Odaimedu, Thiruvalluvar Nagar, Athani Village, Anthiyur Taluk, Erode District, which is located on the northern side of the Sathyamangalam to Athani State Highways, and he has been living there for decades together along with his family and like him, thirty other families also reside there. The petitioner would state that he belonged to the Scheduled Caste Community and to eke out his livelihood, he is doing agricultural coolie work and the superstructure in which he is residing is assessed to property tax and other statutory levies and the Local Body has also provided the basic amenities to him and other residents of the said locality. The petitioner would further state that to his shock and surprise, he has been issued with a show cause notice by the third respondent under Section 28(2)(ii) of the Tamil Nadu Highways Act, 2001 and challenging the legality of the same, he has filed the present writ petition.

[t] W.P.No.26546 of 2017 : The petitioner claims to be the resident in Survey No.422/1, Door No.70, Odaimedu, Thiruvalluvar Nagar, Athani Village, Anthiyur Taluk, Erode District, which is located on the northern side of the Sathyamangalam to Athani State Highways, and he has been living there for decades together along with his family and like him, thirty other families also reside there. The petitioner would state that he belonged to the Scheduled Caste Community and to eke out his livelihood, he is doing agricultural coolie work and the superstructure in which he is residing is assessed to property tax and other statutory levies and the Local Body has also provided the basic amenities to him and other residents of the said locality. The petitioner would further state that to his shock and surprise, he has been issued with a show cause notice by the third respondent under Section 28(2)(ii) of the Tamil Nadu Highways Act, 2001 and challenging the legality of the same, he has filed the present writ petition.

[u] W.P.No.26547 of 2017 : The petitioner claims to be the resident in Survey No.422/1, Door No.48C, New No.55, Odaimedu, Thiruvalluvar Nagar, Athani Village, Anthiyur Taluk, Erode District, which is located on the northern side of the

Sathyamangalam to Athani State Highways, and he has been living there for decades together along with his family and like him, thirty other families also reside there. The petitioner would state that he belonged to the Scheduled Caste Community and to eke out his livelihood, he is doing agricultural coolie work and the superstructure in which he is residing is assessed to property tax and other statutory levies and the Local Body has also provided the basic amenities to him and other residents of the said locality. The petitioner would further state that to his shock and surprise, he has been issued with a show cause notice by the third respondent under Section 28(2)(ii) of the Tamil Nadu Highways Act, 2001 and challenging the legality of the same, he has filed the present writ petition.

[v] W.P.No.26548 of 2017 : The petitioner claims to be the resident in Survey No.422/1, Door No.130-A, New No.130-B, Odaimedu, Thiruvalluvar Nagar, Athani Village, Anthiyur Taluk, Erode District, which is located on the northern side of the Sathyamangalam to Athani State Highways, and he has been living there for decades together along with his family and like him, thirty other families also reside there. The petitioner would state that he belonged to the Scheduled Caste Community and to eke out his livelihood, he is doing agricultural coolie work and the superstructure in which he is residing is assessed to property tax and other statutory levies and the Local Body has also provided the basic amenities to him and other residents of the said locality. The petitioner would further state that to his shock and surprise, he has been issued with a show cause notice by the third respondent under Section 28(2)(ii) of the Tamil Nadu Highways Act, 2001 and challenging the legality of the same, he has filed the present writ petition.

3.1. Mr.V.Lakshminarayanan, learned counsel appearing for the petitioners, assisted by Mr.Ma.P.Thangavel, has invited the attention of this Court to the common typed set of documents and has stated that in consideration of the request made by a certain Women Self Help Group of Anthiyur Taluk, to remove the encroachments in Survey Nos.423,424 of Odaimedu, Thiruvalluvar Nagar, Athani Village, Anthiyur Taluk, Erode District, and to provide them a pathway and a burial ground in the said locality, the proceedings dated 12.01.2005 in Oo.Mu.2770/2005 was issued by the Office of the District Collector, Erode District, to the Block Development Officer, Bhavani, in connection with the said issue. Further in the said proceedings, it has been indicated that the portion of the land in Survey No.422/2, which has been used as a burial ground by the residents of the said area, have already been provided with pathway and electricity amenities and the local body was instructed that necessary steps may be taken to maintain the burial ground in a proper manner and also a portion of land in Survey No.422 of Odai Poramboke may be reclaimed and proper facilities may be provided to the public.

3.2. The learned counsel for the petitioner has further drawn the attention of this Court to the proceedings of the Executive Officer of the Special Grade Panchayat, Athani Village, Erode District addressed to the second respondent, dated 03.12.2004 in Na.Ka.No.11/2004 and would submit that as per the said communication, the land in Re-Survey No.422 of the said area has been classified as "Niaviyal Salai" ["Pathway across the Land"] and a decision has been taken to convert the land in Re-Survey No.422 [Nilaviyal Salai] to "Natham Land" and therefore, directed the second respondent to take appropriate action to covert the said Nilaviyal Salai into Natham Land and issue patta to the public and accordingly the petitioners have also applied for patta of those lands, but to their shock and surprise, vide the impugned notice, the third respondent alleged that they are the encroachers and he would further urge that in the event of the said impugned proceedings was allowed to be implemented, the petitioners and his family members, who are there for very many decades, would be put great hardship and since they hail from poor and downtrodden community, they would suffer very much and prays for appropriate orders.

4. Per contra, Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the respondents would submit that the land in Survey No.422 belong to State Highways and action has been taken strictly in accordance with law as per the provisions of the Tamil Nadu Highways Act 2001 and the rules framed therein, for which the petitioner cannot have any grievance and prays for dismissal of these writ petitions.

5. This Court considered the rival submissions and also perused the materials placed before it.

6. According to the petitioners, they are are in possession and enjoyment of certain extent of lands in Survey Nos.422/1 of Athani Village, Anthiyur Taluk, Erode District and the superstructures put up by them are subjected to statutory levies and various schemes were sponsored by the Government and in the light of the communication dated 03.12.2004 sent by the Executive Officer of the Special Grade Panchayat, Athani Village, Erode District to the second respondent, the lands in the Survey No.422 have been converted as "Natham Lands" and steps are being taken to issue patta for the beneficiaries, which also includes the petitioners herein and therefore, the impugned notices are per se unsustainable.

7. It is relevant to extract Section 28 of the Tamil Nadu Highways Act, 2001 :

28. Prevention of encroachment - (1) The Highways Authority or any person authorised by it in this behalf shall, at such time as may be considered necessary,

conduct such checks and periodical inspection of the highway boundaries, with the view to ensure the prevention of unauthorised encroachment and the removal of such encroachment.

(2) The Highways Authority or any person authorised by it in this behalf, may -

(i) remove, without any notice, any movable temporary structure, enclosure, stall booth, any article whatsoever hawked, exposed or displayed for sale or any other thing whatsoever by way of encroaching the highway or in any area where the construction or development of a highway is undertaken or proposed to be undertaken;

(ii) remove any immovable structure, whether permanent or temporary in nature, encroaching the highway or in the area vested with Government under this Act, after issuing a show cause notice against such removal, returnable within a period of seven days from the date of receipt thereof:

and as per proviso to Section 28(2), any representation received within time limit shall be considered by the authority or officer concerned before passing final orders.

8. It appears that on behalf of the petitioners herein, in response to the impugned notices, the petitioner in W.P.No.26527 of 2017, namely, Mr.P.Anbhazhagan, has submitted his representation to the first respondent for grant of patta to the lands in question, enclosing the list of beneficiaries.

9. This Court, in the light of the above facts and circumstances and without going into the merits of the rival claims, permits the writ petitioners to submit individual representations by enclosing necessary and authenticated documents, to the third respondent, within a period of four weeks from the date of receipt of a copy of this order and the third respondent upon receipt of the same, is directed to consider and dispose of the the said representations after putting the second respondent on notice and pass orders in accordance with law within a period of ten weeks thereafter and communicate the decision taken, to the petitioners and the second respondent and till such time, the third respondent shall defer further proceedings in terms of the impugned notices dated 28.09.2017. It is made clear that the writ petitioners, till the disposal of their representations by the third respondent, shall not alter the physical features of the properties in question and shall not create any third party rights in respect of the lands and superstructures in question.

10. These writ petitions stands disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ds

- 1.The District Collector
Erode, Erode District.
- 2.The Tahsildar,
Taluk Office, Anthiyur, Erode District.
- 3.The Assistant Divisional Engineer,
Highways Department (B & M)
Bhavani, Erode District.

+1 cc to Mr.Ma.P.Thangavel Advocate sr 73051
+1 cc to the Govt Pleader Taxes sr 73353

W.P.Nos.26527 to 26548 of 2017

सत्यमेव जयते

aa13/10/2017

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