



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 01.09.2017

CORAM :

WEB COPY

**THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.P (MD) No.16368 to 16371 of 2017
and
W.M.P (MD) No.13043 to 13046 of 2017

Mohideen Pitchai	... Petitioner in WP (MD) No.16368 of 2017
Sheik Meeral	... Petitioner in WP (MD) No.16369 of 2017
Maideen Meeral	... Petitioner in WP (MD) No.16370 of 2017
Segammal Beevi	... Petitioner in WP (MD) No.16371 of 2017

Vs.

- 1.The District Collector,
Tirunelveli District,
Tirunelveli. ... R1 in all WP's
- 2.The Assistant Divisional Engineer,
State Highways,
Construction and Maintenance,
Senkottai,
Tirunelveli District. ... R2 in WP (MD) No.16368 and
16369/2017
- 3.The Tahsildar,
Senkottai, Tirunelveli District. ... Respondent No.3 in all WP's
- 4.The Assistant Engineer,
Public Works Department,
Water Resource Organisation,
Irrigation Division,
Tenkasi,
Tirunelveli District ... R2 in WP (MD) No.16370 and
16371/2017



Common Prayer : Petitions filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for records relating to the impugned order made by the second respondent in K.No.128-3/2017/A2, dated 16.08.2017 (WP(MD)No.16368 and 16369/2017) and the proceedings nil dated 07.08.2017 WP(MD)No.16370 and 16371/2017 respectively and quash the same as illegal.

For Petitioners
in all WPs

: Mr.M.Ajmalkhan,
Senior Counsel

For Respondents
in all WPs

: Mr.T.S.Md.Mohideen,
Additional Government Pleader.

O R D E R

(Order of the Court was made by G.R.SWAMINATHAN, J.)

In these writ petitions, the writ petitioners have challenged the impugned orders dated 16.08.2017 and 07.08.2017 issued by the second respondent calling upon the writ petitioners to remove the encroachment in question.

2.The encroachment is in survey numbers mentioned in the affidavit filed in support of the respective writ petitions in Vadakarai - Adavinayinaar Anaikattu Road. The lands in question belong to State Highways. The second respondent issued notice to the writ petitioners calling upon them to prove their right over the said properties. Even after such opportunity was afforded, the writ petitioners could not establish their title or right over the said property. Since highway encroachments are inherently objectionable, the second respondent issued notice for causing their removal.

3.The learned Senior Counsel appearing for the writ petitioners would submit that the removal of the encroachment without giving them adequate time would cause exceptional prejudice and hardship to them. It was also submitted that the writ petitioners belong to economically poorer sections of the society. The writ petitioners have also filed undertaking affidavit to vacate the land in question on or before 15.05.2018. The learned Senior Counsel however wanted a direction to be issued to the first respondent to consider their plea for allotting alternative sites.

<https://hcservices.ecourts.gov.in/hcservices/>

4.The writ petitioners are at liberty to approach the first respondent with a suitable application seeking allotment of a free



house site. The first respondent is directed to consider the same sympathetically, if the writ petitioners are otherwise eligible. In any event, the writ petitioners shall vacate the lands in question as undertaken by them before this Court on or before 15.05.2018. The orders impugned in these writ petitions are not quashed and they are sustained. But the second respondent is directed to keep the same in abeyance till 15.05.2018.

5. These writ petitions are disposed of on the above terms. No costs. Consequently, all the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (C.O)

/True Copy/

Sub-Assistant Registrar

To

1. The District Collector,
Tirunelveli District,
Tirunelveli.

2. The Assistant Divisional Engineer,
State Highways,
Construction and Maintenance,
Senkottai, Tirunelveli District.

3. The Tahsildar,
Senkottai, Tirunelveli District.

4. The Assistant Engineer,
Public Works Department,
Water Resource Organisation,
Irrigation Division,
Tenkasi,
Tirunelveli District

+4 ccc to M/s. Ajmal Associates, Advocate, SR.Nos.76278 to 76281
+One cc to The Special Government Pleader, SR.Nos.76668 and 76679

skm/Arul
RL/10c/3P/KP/SAR1/25/9/2017

W.P (MD) No.16368 to 16371 of 2017
and

W.M.P (MD) No.13043 to 13046 of 2017