

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:03.04.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

W.P.No.7626/2018 & WMP.Nos.9532 and 9621/2018

A.Rose Mary

.. Petitioner

Vs

1.The Tahsildar  
Poonamallee,  
Chennai 600 056.

2.The Divisional Engineer  
Highways Department  
[Construction and Maintenance]  
Tiruvallur.

3.The Assistant Divisional Engineer  
Highways Department [Construction  
and Maintenance], Ambattur Sub-Division  
Avadi, Chennai 600 054.

4.The Assistant Engineer  
Highways Department [Construction  
and Maintenance], Poonamallee.

.. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorarified mandamus calling for the records of the 3<sup>rd</sup> respondent in final notice dated 07.03.2018 bearing No.182/2018/C2 issued under section 28[2] of the Tamil Nadu Highways Act, 2001 and to quash the same and forbearing the respondents 2 to 4 from interfering with the peaceful possession and enjoyment of the petitioner property measuring an extent of 164 sq.m., comprised in S.No.93/3 in Block No.93/92 in Veeraragavapuram Village, Poonamallee Taluk, Tiruvallur District assigned by the 1<sup>st</sup> respondent in favour of the petitioner through Assignment Order bearing Na.Ka.No.5499/2000.

For Petitioner  
For RR 1 to 4

: Mr.R.Chandrasudan  
: Mr.A.N.Thambidurai, Spl.GP

ORDER

[Order of the Court was made 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.

2 The petitioner claims that a landed property admeasuring to an extent of 164 sq.m. comprised in S.No.93/3 in Block No.93/92 in Veeraragavapuram Village, Poonamallee, Tiruvallur District was allotted to her by the 1<sup>st</sup> respondent under the provisions of Revenue Standing Order 21 vide proceedings in Na.Ka.No.5499/2000/Aa2. The petitioner claims that she occupied the said property in the year 1994 and thereafter, put up superstructure consisting of shops and a house in front and rear portion respectively. The petitioner would state that she along with persons similarly placed, had applied for patta in respect of the lands in their possession and the Government had favourably considered and issued G.O.Ms.No.168, Revenue [Ne.Mu] Department dated 27.03.2000 and the Collector of Tiruvallur District vide proceedings bearing Na.Ka.No.36061/2000 has also submitted a proposal for issuance of house site pattas in favour of the occupants numbering 93 persons, including the petitioner. Accordingly, the Tahsildar, Poonamallee, vide proceedings dated 04.02.2001 has allotted the said property in the possession of the petitioner subject to the remittance of Rs.3442.50p. and it was also remitted. The petitioner would further aver that all of a sudden, to her shock and surprise, the 3<sup>rd</sup> respondent has issued the show cause notice dated 07.03.2018 u/s.28[2] of the Tamil Nadu State Highways Act, 2001, stating that the petitioner had encroached upon the land which falls within the Survey No.95/2 and calling upon her to remove the encroachment within a period of seven days and challenging the legality of the same, the petitioner has come forward to file the present writ petition.

3 The learned counsel for the petitioner would submit that admittedly, the petitioner is in occupation of land in S.No.93/3 in Block No.93/92 and it has also been assigned in her favour and she is not in occupation of the land in S.No.95/2 as alleged in the impugned final notice dated 07.03.2018 issued by the 3<sup>rd</sup> respondent and apprehending dispossession, the petitioner is constrained to approach this Court by filing this writ petition.

4 Per contra, Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the respondents would submit that as per proviso to section 28[2][ii] of the Tamil Nadu Highways Act, 2001, it is open to the petitioner to submit her response and it will be considered and appropriate orders will be passed.

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

6 This Court, taking into consideration the above facts and circumstances and without going into the merits of the claim projected by the petitioner, grants her liberty to submit her response/reply to the show cause notice dated 28.02.2018 issued by the 3<sup>rd</sup> respondent within a period of two weeks from the date of receipt of a copy of this order by enclosing relevant and authenticated documents to the 3<sup>rd</sup> respondent and the 3<sup>rd</sup> respondent, upon receipt of the same, is directed to consider the said reply/response on merits and in accordance with law and pass appropriate orders within further period of six weeks thereafter and communicate the decision taken, to the petitioner and till such time, shall defer further decision with regard to the removal of encroachment insofar as the petitioner is concerned in S.No.95/2 - Mount-Poonamallee-Avadi Road, Km 13/6. It is also made clear that the petitioner, till the disposal of the representation by the 3<sup>rd</sup> respondent, shall not create any third party rights and shall not alter the physical features also.

7 The writ petition stand disposed of with the above direction. No costs. Consequently, the connected miscellaneous petitions are closed.

-sd/-

Assistant Registrar

True Copy

Sub-Assistant Registrar

AP

To

1.The Tahsildar

Poonamallee, Chennai 600 056.

2.The Divisional Engineer

Highways Department

[Construction and Maintenance]

Tiruvallur.

3.The Assistant Divisional Engineer

Highways Department [Construction

and Maintenance], Ambattur Sub-Division

Avadi, Chennai 600 054.

4.The Assistant Engineer

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and Maintenance], Poonamallee.

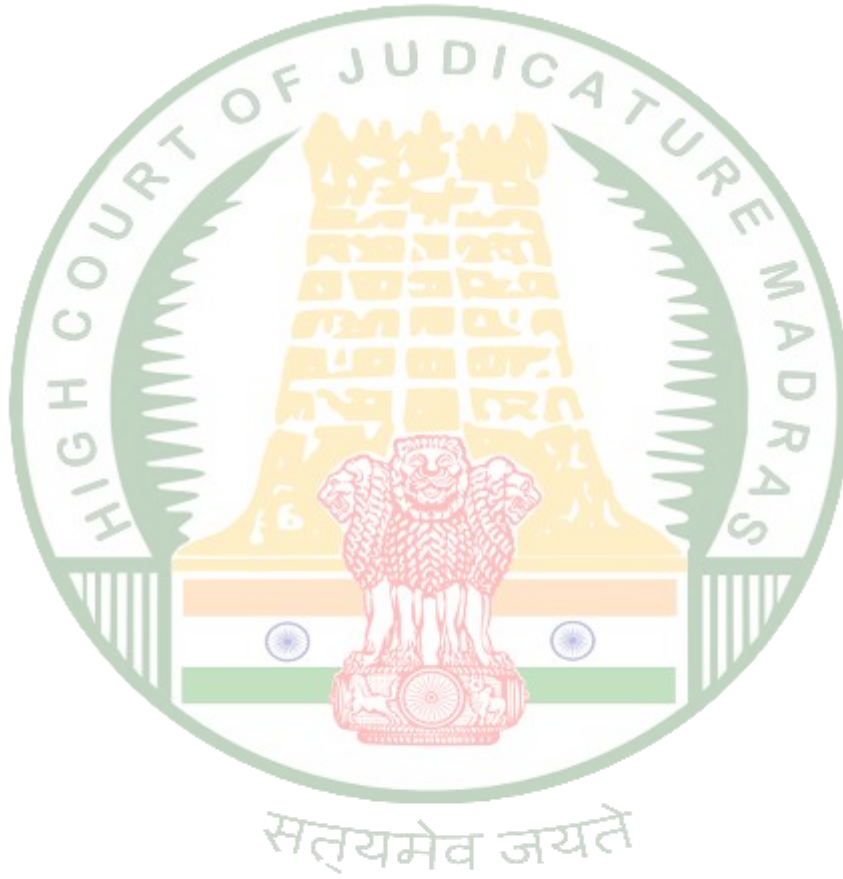
+1 C.C. to The Government Pleader SR.NO. 24871

+1 C.C. to Mr.R.Chandra Sudan Advocate SR.NO. 24946

WP.No.7626/2018

KAN (CO)

VS 17.04.2018



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