

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2018

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN
AND
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P. No. 17652 of 2018
&
W.M.P. No. 20916 of 2018

A. Sethurathnam ..Petitioner

Vs.

1. The District Collector,
Kancheepuram District,
Kancheepuram.
2. The Director General,
Highways Department,
Public Works Department Complex,
Kamarajar Salai,
Chepauk, Chennai 600 005.
3. The Revenue Divisional Officer,
Thiruporur,
Kancheepuram District.
4. The Thasildar,
Thiruporur Taluk,
Kancheepuram District.
5. R. Mahendran
6. Raja a.k.a. Soundararajan
7. The Assistant Divisional Engineer,
Highways (C&M), Chengalpattu.

(7th respondent suo motu impleaded
by this Court by this order)

..Respondents

Prayer: Petition under Article 226 of the Constitution of India
praying for issue of a Writ of Mandamus to direct respondents 1
to 4 to remove the illegal construction made in the Government
Highways land in S.No. 343/2A at Village No.45, Vadanameli

Village, (Thiruvidanthai Village), Chengalpattu Taluk, Kanchipuram District blocking petitioner's ingress and egress.

For Petitioner :: Mr.S. Mukunth

For Respondents:: Mr.A.N. Thambidurai,
Special Govt.Pleader for
R1 to R4 & R7
Mr.A.J. Mujibur Rahman for R6
& R5

O R D E R

(Order of the Court was made by N. KIRUBAKARAN,J.)

The writ petition is filed for issue of a Writ of Mandamus to direct respondents 1 to 4 to remove the illegal construction made in the Government Highways land in S.No. 343/2A at Village No.45, Vadanameli Village, (Thiruvidanthai Village), Chengalpattu Taluk, Kanchipuram District blocking petitioner's ingress and egress.

2. The petitioner had earlier approached this Court by filing W.P. No. 3974 of 2014 seeking a Writ of Mandamus directing the respondents herein including the 5th and 6th respondents to take appropriate legal action against the unauthorised construction being made on Government Highways Land (ECR) comprised in S.No. 343/2A, Vadanameli Village, (Thiruvidanthai Village), Thiruporur Taluk, Kancheepuram District, creating a blockade of entry to the petitioner's patta land in Patta No. 2075 based on his representation dated 30.01.2013. After hearing all the parties, this Court directed the Assistant Divisional Engineer, Highways (C&M), Chengalpattu, who was the 10th respondent in the aforesaid writ petition to conduct an enquiry as to whether the 5th respondent purchased the property after valid land acquisition proceedings and take necessary action. Though the order was passed as early as on 12.01.2017, no action has been taken. Hence, the present writ petition has been filed.

3. In the facts and circumstances of the case, this Court deems it appropriate to suo motu implead the Assistant Divisional Engineer, (C&M), Chengalpattu. Accordingly, the Assistant Divisional Engineer (C&M), Chengalpattu, is suo motu impleaded by this Court as 7th respondent to the writ petition and Mr.A.N. Thambidurai, learned Special Government Pleader takes notice on his behalf.

4. Heard Mr.S. Mukunth, learned counsel for the petitioner, Mr.A.N. Thambidurai, learned Special Government

Pleader for respondents 1 to 4 and 7 and Mr.A.S. Mujibur Rahman, learned counsel for 5th & 6th respondents. Since the 6th respondent is the Power of Attorney of the 5th respondent, the learned counsel for the 6th respondent also represents the 5th respondent.

5. According to the learned counsel for the petitioner, the property comprised in S.No. 343/2A has been acquired by the authorities for expansion of ECR. Learned counsel for the petitioner would point out from Adangal Register, which shows that S.No. 343/2A is ECR. Mr.A.N. Thambidurai, learned Special Government Pleader appearing for official respondents would submit that acquisition proceedings were concluded as early as in the year 1997 and expansion of the road was also done. In fact, steps are being taken to evict the private respondents.

6. However, the learned counsel for 5th and 6th respondents would submit that without knowing that the property had been acquired by the authorities, the private respondents had purchased the property. Even in the writ petition, so far, no notice has been given to them. In fact, expansion of ECR is already over and the private respondents have already put up construction, which they have been in enjoyment right from 2007 by which time they purchased the property. Therefore, the land is no more required for expansion purpose, he would submit.

7. It is evident from the Adangal Register that the land in S.No. 343/2A has been shown as ECR. However, as per the earlier order dated 12.01.2017, now only, the newly impleaded 7th respondent has issued notice on 17.07.2018 and the private respondents have also given their reply on 24.07.2018. Therefore, the 7th respondent is directed to give an opportunity of personal hearing to all parties concerned and also to produce documents and other evidence and thereafter, pass appropriate orders, on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order. Till a decision is taken and orders are passed and served upon the private respondents, the possession of the private respondents shall not be disturbed. Further action, pursuant to the decision taken, shall be initiated by the official respondents, within a period of two weeks thereon.

8. It is represented by the learned counsel for the petitioner that the private respondents have already put up construction and even though the construction is complete, the shop has not been opened. Therefore, the private respondents are directed not to put the construction to use including opening of the shop.

9. The writ petition is disposed of accordingly. Post after eight weeks for reporting compliance. No costs. Connected W.M.P. is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy//

Sub Assistant Registrar

To

1. The District Collector,
Kancheepuram District,
Kancheepuram.
2. The Director General,
Highways Department,
Public Works Department Complex,
Kamarajar Salai,
Chepauk, Chennai 600 005.
3. The Revenue Divisional Officer,
Thiruporur,
Kancheepuram District.
4. The Thasildar,
Thiruporur Taluk,
Kancheepuram District.
5. The Assistant Divisional Engineer,
Highways (C&M), Chengalpattu.
- 6 The Section Officer,
Writ Section, High Court, Madras.

+1cc to Mr.A.S.Mujibur Rahuman, Advocate SR.No.50213

+1cc to M/s.SARVABHUMAN ASSOCIATES, Advocate SR.No.50320

+1cc to Government Pleader SR.No.51358

SMI/28.08.2018

W.P. No. 17652 of 2018