

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2018

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.35454 of 2007

And

M.P.Nos.1 of 2007 and 1 of 2008

- 1.K.Parthasarathy
- 2.D.Rajasekaran
- 3.C.Manoharan
- 4.P.K.Dhayalamoorthy
- 5.N.Vijayakumar
- 6.E.V.K.Balaji
- 7.K.R.Jadaiyappa Mudaliar
- 8.C.Krishamoorthy
- 9.Kanakavalli
- 10.B.Vasudevan

... Petitioners

Vs.

- 1.The District Collector
Vellore District
Vellore and District
- 2.The Tashildar
Gudiyattam Taluk Office
Gudiyattam 632 602
Vellore District
- 3.The Commissioner
Gudiyatham Municipality
Gudiyatham Town
Vellore District
- 4.The Municipal Surveyor
Gudiyatham Municipality
Gudiyatham 632 602
Vellore District
- 5.The Assistant Engineer
Public Works Department
Buildings (C and M) Section,
Gudiyatham 632 602
Vellore District.

6.The Assistant Engineer
Highways Department
Katpadi Road
Gudiyatham 632 602
Vellore District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the respondents, their officials and Subordinates from in any way demolishing a portion of the Petitioners' Shops respectively situated in Melpatti Road in D.Nos.21-0, 21-P, 21-Q & R, 21-T, 21-U, 21-V, 21-W and in Pernambut Road in Shop Nos.21-Y and 21-Z in Nethaji Chowk, Santhapet, Gudiyattam, Vellore District upto the demarcated area (H/D) without acquiring the said Shops' Land and a portion of the Building under the provisions of the Land Acquisition Act, 1894.

For Petitioners: Mr.T.A.Ravindran

For Respondents: Mr.K.Ravikumar for R1, R2, R4 to R6
Additional Government Pleader
Mr.D.Sreenivasan for R3

O R D E R

The petitioner has filed this petition seeking issuance of Writ of Mandamus forbearing the respondents, their Officials and Subordinates from in any way demolishing a portion of the petitioners' shops respectively situated in Melpatti Road in D.Nos.21-0, 21-P, 21-Q & R, 21-T, 21-U, 21-V, 21-W and in Pernambut Road in shop Nos.21-Y and 21-Z in Nethaji Chowk, Santhapet, Gudiyattam, Vellore District upto the demarcated area (H/D) without acquiring the said shops' land and a portion of the building under the provisions of the Land Acquisition Act, 1894.

2.The case of the petitioners is that they are inducted as Tenant by Sri Seetharama Anjaneya Devasthanam and Ariya Vaisya Sangam long back. The then existing superstructure was constructed with country wood and tiles. When the shops became weak due to the old age, the petitioners constructed concrete building and are maintaining them. Whiles, the shops were demarked with the symbol H/D without any enquiry with regard to the ownership of the land and without notice to the petitioners. Aggrieved by the same, the petitioners have filed this petition.

3.The learned counsel appearing for the petitioners would submit that the right to possess property is guaranteed under Section 300 A of the Constitution of India and it cannot be

acquired without following due process of law. Accordingly, he prayed for allowing the writ petition.

4.The learned Additional Government Pleader pointing out to the counter filed by the respondents, particularly paragraph no.5 would submit that the Gudiyattam Highways Department had sent their Officials and asked the petitioners to remove the encroachments. He would further submit that the shop owners had encroached one meter place which belongs to the Highways Department i.e., 3-1/2 feet and the same is shown in the Field Map and would further submit that the chitta issued by the Gudiyattam Municipal Commissioner clearly shows that S.Nos.568 and 192/2 belongs to the Highways Department.

5.In view of the above, the sixth respondent is given liberty to proceed and evict/ acquire the land after following due process of law. The writ petition is accordingly disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar(CS V)

//True copy//

Sub Assistant Registrar

pri

To

1.The District Collector
Vellore District

2.The Tashildar
Gudiyattam Taluk Office
Gudiyattam 632 602
Vellore District

3.The Commissioner
Gudiyatham Municipality
Gudiyatham Town
Vellore District

4.The Municipal Surveyor
Gudiyatham Municipality
Gudiyatham 632 602
Vellore District

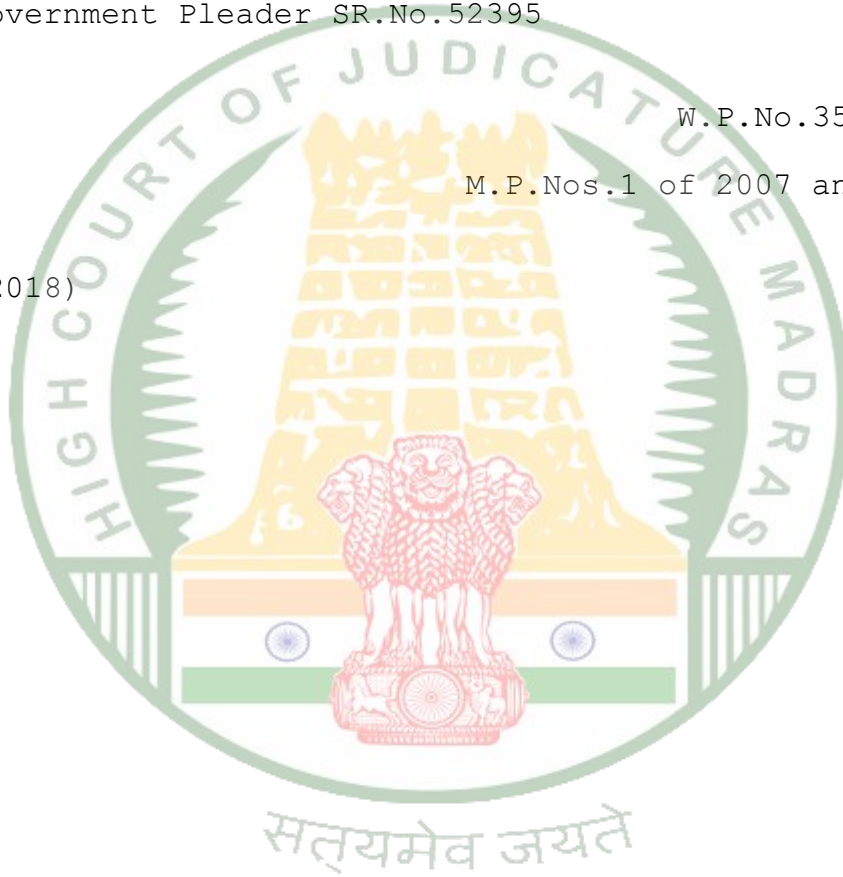
5.The Assistant Engineer
Public Welfare Department
Buildings (C and M) Sections,
Gudiyatham 632 602

6.The Assistant Engineer
Highways Department
Kalpadi Road
Gudiyatham 632 602
Vellore District

+lcc to Mr.K.A.Ravindran, Advocate SR.No.52251
+lcc to Government Pleader SR.No.52395

W.P.No.35454 of 2007
And
M.P.Nos.1 of 2007 and 1 of 2008

GN(28/08/2018)



WEB COPY