



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P.[MD].No.3252 of 2018
and
W.M.P(MD)No.3413 of 2018

P.Abraham : Petitioner

vs.

1.The District Collector,
Tuticorin District,
Tuticorin.

2.The Divisional Engineer,
Highways Department,
Tuticorin.

3.The Assistant Divisional Engineer,
Highways Department,
Kovilpatti,
Tuticorin District.

: Respondents

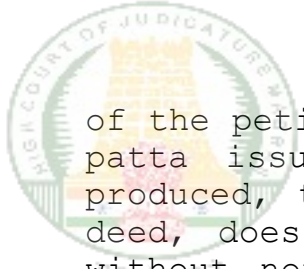
PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, forbearing the respondents from interfering in the land and shop in Survey No.462 Part, Now Ward 4, to an extent 25.50 ft EastWest, 10 ft NorthSouth totally to an extent of 255 Sq.Ft in D.No.702 situated at Main Road, Kovilpatti Town, Tuticorin District without due process of law.

For Petitioner : Mr.T.Selvan
For R1 to R3 : Mr.S.Dhayalan,
Government Advocate

O R D E R

Heard Mr.T.Selvan, learned counsel appearing for the petitioner and Mr.S.Dhayalan, learned Government Advocate accepting notice on behalf of the respondents.

2.The petitioner owned two shops in a very busy locality in Kovilpatti Town, Tuticorin District. The Highways Department has made a marking on the Wall of the shop stating that the petitioner has encroached in to the Highway. The petitioner case is that there is no encroachment. In this regard, the petitioner would refer to the measurement given in the sale deed, which was executed in favour



of the petitioner. We find that the petitioner has not produced the patta issued in his favour and unless and until the patta is produced, the question of relying upon the measurement in the sale deed, does not arise. Further, the grievance appears to be that without notice to the petitioner, marking was done and it is not clear that as to how the authorities concluded that there is an encroachment in the highway. To that extent, we are inclined to accept the submission of the learned counsel for the petitioner.

3. For the above reason, we direct the respondents 2 and 3 and their officials to re-measure the properties not only that of the petitioner, but also the other properties in the said street, after notice to the owners/occupants of those properties. After recording the measurement, if it is found there is an encroachment, the petitioner and other persons shall be issued notice giving 15 days time to remove the encroachments (if any) by themselves, failing which, the respondents 2 and 3 shall take action in accordance with law.

4. The above direction shall be complied with within a period of 10 days from the date of receipt of a copy of this order.

5. Accordingly, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Tuticorin District,
Tuticorin.
2. The Divisional Engineer,
Highways Department,
Tuticorin.
3. The Assistant Divisional Engineer,
Highways Department,
Kovilpatti,
Tuticorin District.

+1cc to Special Government Pleader, SR.No. 49673

WP (MD) No. 3252 of 2018
16.02.2018

AM