



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

W.P.[MD].No.3257 of 2018

and

W.M.P (MD)No.3424 of 2018

Samuel

: 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 D.No.709, Now Ward 4, to an extent of 18.75 ft. East West, 11ft North South totally to an extent of 207 sq.ft. situated at Main Road, Kovilpatti Town, Tuticorin District without due process of law.

For Petitioner : Mr.T.Selvan

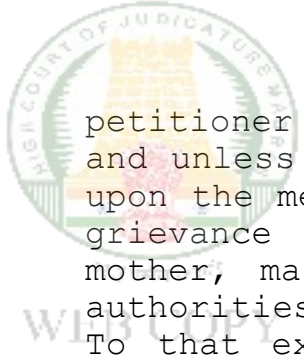
For Respondents : Mr.D.Muruganandam

Additional Government Pleader

O R D E R

Heard Mr.T.Selvan, learned counsel appearing for the petitioner and Mr.D.Muruganandam, learned Additional Government Pleader accepts notice on behalf of the respondents.

2. The petitioner leased out the shop in D.No.709, Now Ward 4, to an extent of 18.75 ft. situated at Main Road, Kovilpatti Town, Tuticorin District to one Jithu for conducting mobile shop. The Highways Department has made a marking on the Wall of the shop stating that the land belongs to Highways Department. The petitioner's 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 his mother. We find that the



petitioner has not produced the Patta issued in favour of his mother 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's mother, 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's mother, 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's mother 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 ten days from the date of receipt of a copy of this order.

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

Sd/-

Assistant Registrar (CS-I)

/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 M/S.Special Government Pleader,SR. 49787

+1cc to Mr.T.SELVAN,Advocate,SR.49732

W.P.[MD].No.3257 of 2018
19.02.2017