



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 13.03.2018
CORAM:

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

W.P (MD) No.4967 of 2018
and
W.M.P. (MD) Nos.4959 to 4961 of 2018

Mariavijaya

.. Petitioner

Vs.

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Divisional Engineer,
State Highways Authority Tirunelveli Division,
Tirunelveli District,
Tirunelveli.

3.The Assistant Divisional Engineer,
State Highways Authority Radhapuram Sub Division,
Radhapuram, Radhapuram Taluk,
Tirunelveli District.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned notice issued by the 3rd respondent in his proceedings in Ku.No1/ ~~சென்னை~~ /2017-18 /உ.கோ.பொ./ date 01.02.2018 and quash the same as illegal and consequently direct the respondents not to interfere with the petitioner temporarily arrangement to have accesses to the upstairs through the demolished portion in bearing door numbers 38/1, 38/2, 38/3, 38/4, 38/5 at Panakudi, Radhapuram Taluk, Tirunelveli District.

For Petitioner : Mr.S.R.Anbarasu

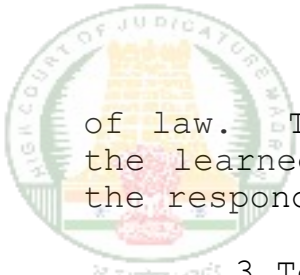
For Respondents : Mr.D.Muruganandan
Additional Government Pleader

ORDER

[Order of the Court was made by T.S.SIVAGNANAM, J.]

Heard Mr.S.R.Anbarasu, learned counsel appearing for the petitioner, Mr.D.Muruganandan, learned Additional Government Pleader, appearing for the respondents.
<https://hcservices.ecourts.gov.in/hcservices/>

2.The Writ Petitioner is before this Court complaining that the stair case and the balcony portion of the petitioner's property have been demolished by the respondent without following due process



of law. To verify the correctness of the said stand, we directed the learned Additional Government Pleader to get instructions from the respondents vide our Court order dated 08.03.2018.

3. Today the learned Additional Government Pleader has produced written instructions given by the Tahsildar, Pudukottai, from which we find that it is not only the petitioner, who has encroached the road but there are as many as 79 encroachers encroached the road, against whom the action has been taken. They have encroached the land in Survey No.1370. The sketch produced before this Court shows that in a high handed manner, all the encroachers blocked the entire road. The petitioner's construction appears to be one such construction.

4. The learned counsel for the petitioner would vehemently contended that the building plan approval was obtained on 13.12.2012. The question would be whether the construction put up by the petitioner is in accordance with the building plan approval. In any event the stair case and the balcony should not be on the road. It should be within the petitioner's property.

5. Therefore, we find that there is no error in demolishing the stair case and the balcony portion of the petitioner's property. So far as the construction put up by the petitioner is concerned, we direct the first respondent to direct the concerned authority under the Town and Country Planning Act to inspect the petitioner's property and find out as to whether the construction put up by the petitioner is in accordance with the building plan approval dated 13.12.2012. If it is not so, it is open to the respondents to take action in the manner known to law.

6. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CSII)

/True Copy/

Sub-Assistant Registrar

To

1. The District Collector, Tirunelveli District, Tirunelveli.
 2. The Divisional Engineer, State Highways Authority Tirunelveli Division, Tirunelveli District, Tirunelveli.
 3. The Assistant Divisional Engineer, State Highways Authority Radhapuram Sub Division, Radhapuram, Radhapuram Taluk, Tirunelveli District.
- +One cc to Mr. S.R. Anbarasu, Advocate, SR.No.55249
+One cc to The Special Government Pleader, SR.No.55153

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RL/6C/2P/CVC/SAR1/3/4/2018

ORDER MADE IN
W.P (MD) No.4967 of 2018

13.03.2018