



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 31.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P. (MD) No.21535 of 2018
and W.M.P. (MD) No.19423 of 2018

S.Thamizharasan

... Petitioner

-vs-

1.The Government of Tamil Nadu,
Rep. by its Secretary,
Highways and Minor Ports Department,
Fort St. George, Chennai.

2.The District Collector,
Madurai Collector Office Buildings,
Madurai District, Madurai.

3.The Project Director,
National Highways Authority of India,
307, Melur Main Raod,
K.K. Nagar, Madurai - 625 020.

4.The Divisional Engineer,
The State Highways Department,
Madurai - Natham Road,
Door No.11, Lady Doak College Road,
Chokkikulam, Madurai - 2.

5.The Commissioner,
Madurai Corporation, Madurai.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the 1st respondent to stop cutting trees on Madurai to Natham Road, for the purpose of laying or extending roads and in case where it is essential to remove those trees direct the respondents to transplant those trees within a stipulated period of time.

For Petitioner	:	Ms.Akailya
		M/s.Ajay Justice Shaw
For Respondents 1, 2	:	Mrs.S.Srimathi
& 4		Special Government Pleader

For 3rd Respondent	:	Mr.C.Arul Vadivel @ Sekar
For 5th Respondent	:	Mr.R.Murali

**ORDER****(Order of the Court was made by M.M.SUNDRESH, J.)**

This writ petition has been filed as a Public Interest Litigation seeking a direction to the 1st respondent to stop cutting trees on Madurai to Natham Road, for the purpose of laying or extending roads and if required as an absolute necessity they should be relocated and transplanted to appropriate place.

2.The learned counsel appearing for the petitioner would submit that no public hearing has been given. Even the scheme speaks about the transplantation of trees. Now the trees are being cut indiscriminately. The consultant also made assessment with respect to avoiding of cutting trees. Therefore, either the project should be allowed to go without cutting trees or in the alternative the removed trees will have to be replanted.

3.The counter informs the following submissions:

"6.I submit that some road side trees have been identified as necessarily to be removed for four lane construction work of Madurai - Natham NH 785 road. This stretch involves in two districts namely Madurai and Dindigul. Necessary tree cutting permission and valuation report have obtained from the Concerned Revenue Divisional Officers and District Forest Officers as it belongs to National Highways 785.

...

8.I submit that as per the National Green Highways Mission constituted by the Ministry of Road Transport and Highways, Government of India, National Highways Authority of India has undertaken large scale greening/plantation activities along National Highways. The Green Highways Policy, 2015 has been promulgated by Government of India to facilitate the process to develop Green corridors in entire Country. As a follow up action to the Policy, a detailed guidelines for plantation activities have also been released to involve Forest Departments, Government Agencies, NGOs, Local Self Government Bodies, Farmer Groups and Individuals in developing Green corridors across the Nation. To ensure quality plantations and maintenance, a separate Green Highways fund with 1% of Total project cost of all National Highway Projects has been created. National Highways Authority of India has been entrusted as the Nodal Agency for planning, implementation and monitoring of Green Highways Projects. Besides, median plantation along National Highways is also considered for implementation. With a strong collaborative Network of the above agencies, National Highways Authority of India will contribute significantly towards this bigger cause of ecological and economic development by taking up tall plants, central nurseries, median and avenue plantations along National Highways and block plantations on vacant land parcels near flyovers and road alignments.



9.I also submit that National Highways Authority of India has entered into an agreement with the Forest Department for planting plantation in Madurai-Kanyakumari section of NH-7 stretch for the estimated cost of Rs.8,03,56,860/- with 5 year

(ii) km 48.800 to km 93.900 (Virudhunagar District portion)

(iii) km 93.900 to km 133.365 (Tirunelveli District portion)

(i) km 133.365 to km 217.360 (Tirunelveli District portion)

(ii) km 217.360 to km 243.170 (Kanyakumari District portion)

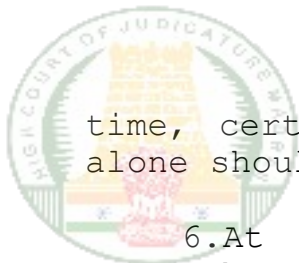
Similar kind of approach would be applied to all projects under Project Implementation Unit, Madurai wherever it is possible.

10.I submit that no trees will be cut which is beyond the area where the ongoing project is undertaken. The trees which are identified as necessary within the proposed Right of Way of NH785 will alone be cut and removed.

11.I further submit that the project is in advance stage and ready for commencement of work. Any delay or obstruction shall cause huge financial and time loss to Government."

4.Placing reliance on the counter affidavit, the learned counsel appearing for the third respondent would submit that the question of public hearing will not be applicable to the third respondent as the same is not provided. Environment clearance is not required for the project which is less than 100 K.M. Now the project is only for 37 kms. Permission has been obtained from the concerned Revenue Divisional Officers and District Forest Officers to cut the trees. In the place of removed trees new saplings will be planted. One percent of total project cost has been earmarked for the aforesaid purpose.

5.Considering the above submissions, while permitting the third respondent to proceed with the ongoing project, we direct them to consider the possibility of transplanting the trees and relocate them in appropriate places as when required as preservation of trees would serve the purpose better than planting new saplings. Past experience has made us to realize planting of new trees would invariably end in failure. It is one thing, plantation to take place and the other thing is maintenance. In a country like ours, for maintenance there is lot of difficulty from various sources. Maintenance would be the biggest challenge. Further, uprooting of the trees would involve the native ones. These trees would take several years to grow. The plantation would be of different variety, which would grow faster, which cannot withstand vagaries like the natural species. Therefore, we direct the third respondent to seriously consider the grievance expressed and take appropriate steps to uproot the trees as and when possible. The question of cost cannot come in the way. Even if it causes more expenses and more



time, certainly it will have to be undertaken as the environment alone should be given priority.

6. At this juncture, learned counsel appearing for the third respondent would submit that maintenance has been given to the forest department. This in our considered view cannot be correct, as forest department is no difference than others. Therefore, it would be appropriate to direct the third respondent to carry out both the exercises which involve fresh planting and transplanting of uprooted trees. We also suggest as one of the learned counsel present before the Court has stated that relocation of the uprooted trees can be done in the available place in the other Highways.

7. Accordingly, this Writ Petition stands disposed of with the above directions and observations. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(W)

/True Copy/

Sub Assistant Registrar(CS-I)

To

1. The Secretary,
The Government of Tamil Nadu,
Highways and Minor Ports Department,
Fort St. George, Chennai.

2. The District Collector,
Madurai Collector Office Buildings,
Madurai District, Madurai.

3. The Divisional Engineer,
The State Highways Department,
Madurai - Natham Road,
Door No.11, Lady Doak College Road,
Chokkikulam, Madurai - 2.

+1CC to Mr.C.Arul Vadivel @ Sekar, Advocate, SR.No.93653
+1CC to the Special Government Pleader SR.No.93845

W.P. (MD) No.21535 of 2018
31.10.2018

SJ
ES/BK/SAR 1/10.12.2018/4P/6C