

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :01.02.2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.26761 of 2005
and
W.P.M.P.No.29201 of 2005

Rajammal

..Petitioner

vs

1. State rep. By
The Chief Engineer,
Tamil Nadu Highways Department,
Vellore District.

2. The Assistant Divisional Engineer (Highways)
Tamil Nadu Highways Department,
Gudiyattam,
Vellore District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus or any other writ or order or direction in the nature of writ calling for the records relating to K.No.320/2005,A2 dated 12.8.2005 issued by the second respondent to quash the same and consequently direct the respondents, their subordinates, men and officials from interfering with the petitioner's peaceful occupation and enjoyment of the land and building comprised of an extent of 1.26 acres in Survey No.6A/1, M.V.Kuppam Village, Gudiyattam Taluk, Vellore District.

For Petitioner : Ms. Usha Raman

For Respondents : Ms. R. Janaki, Additional Government Pleader
for R1 & R2

O R D E R

The order passed by the second respondent in proceedings dated 12.08.2005 directing the writ petitioner to vacate the encroached portion of the property belongs to the Tamil Nadu Highways Department is under challenge in the present Writ Petition.

2. The learned counsel for the writ petitioner states that the writ petitioner is the absolute owner of the land with Survey No.6A/1 in M.V.Kuppam Village, Gudiyattam Taluk, Vellore District .

3. The petitioner is now in occupation of the residential premises measuring to an extent of 1375 square feet. The learned counsel for the writ petitioner made a submission that the petitioner is not a encrocher and it is her patta land. Therefore, the respondents are illegally interfering with the peaceful occupation and enjoyment of the property belongs to writ petitioner.

4. The second respondent filed a status report stating that the Highways Department has a proposal to widen the road and to construct a drainage on both side of the road under central road fund. The surrounding villagers are using this road for transporting and marketing agricultural produce to the nearest marketing center of the Ambur etc., It is just and necessary to remove the encroached properties by the petitioner is require for free flow of traffic and development purpose. The decision for removing encroachments was taken as a mass movement. Separate notice was not issued to every party. With assistance of surveyor of Gudiyatham Town, TOM TOM was carried out sufficiently in advance and printed notice was served in 15 days advance.

5. The land in Survey No.6A/1 in M.v.Kuppam Village, Gudiyatham Taluk, Vellore District consists half the village of the M.V.Kuppa belongs to Grama Natham pond. The petitioner has an extent of 2.25 cents only. The encroachment measures 4 times in her land and marked on the field. The encroachments made by the petitioner is in survey No.95 and this land belongs to Highways department. The petitioner has encroached upon 230 sq.m of land belonging to highways department. Hence, the petitioner has to vacate the land encroached by her in Survey No.95 which belongs to the Highways Department.

6. The learned counsel for the writ petitioner states that the respondents have not measured the land properly with reference to the documents under the possession of the writ petitioner.

7. The learned counsel for the petitioner further states that the writ petitioner had purchased 3 cents. However, these aspects are to be verified by measuring the land and with the revenue records available. Whether the petitioner had erroneously purchased the Highways land or not is also to be verified by the officials.

8. In view of the complex facts and circumstances prevailing in the present case on hand, this court is inclined to pass following orders:

1. The relief as such sought for in the present writ petition stands rejected.

2. the respondents 1 and 2 are directed to appoint the Taluk Surveyor/Town Surveyor for the purpose of re-measuring the entire area including the area belongs to the writ petitioner and submit a report to the respondents enabling them to proceed further in accordance with law.

3. The petitioner shall also co-operate for effecting measurement and if necessary produce the documents before the respondents for verification and for completing the exercise of measuring the entire portion of the land.

4. In the event of any encroachment, the respondents 1 and 2 are empowered evict the encroachers and utilize the land by widening the public road for the public usage. The competent authorities are of the opinion that if there is any dispute or the land belongs to the writ petitioner then they shall not interfere with the peaceful possession and enjoyment of the writ petitioner.

9. In the event of any further necessity for development, the State is empowered to invoke the acquisition laws and accordingly proceed with the project in the interest of the public and public welfare. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-IV)

//True copy//

mrn/kmm

Sub Assistant Registrar

To

1. The Chief Engineer,
Tamil Nadu Highways Department,
Vellore District.

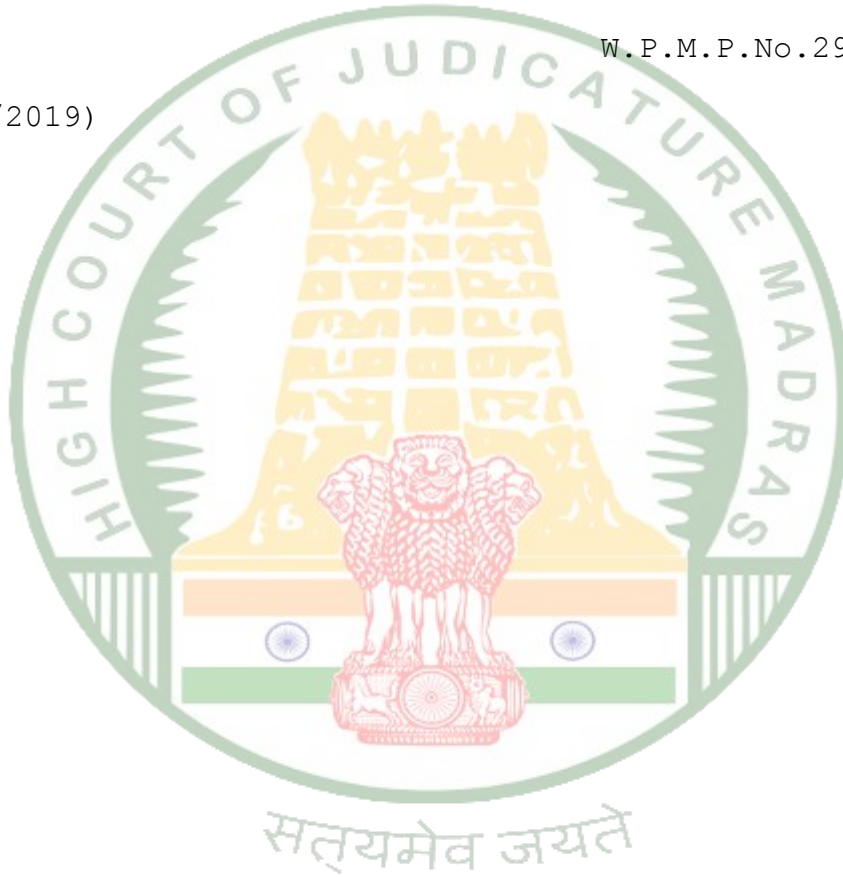
2. The Assistant Divisional Engineer (Highways)
Tamil Nadu Highways Department,
Gudiyattam,
Vellore District.

+1cc to Mrs.Usha Ramman, Advocate SR.No.9112

+1cc to Government Pleader SR.No.9750

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GMV (20/02/2019)



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