

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25-01-2019

CORAM

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

W.P.No.28764 of 2005

And

W.P.M.P.No.31426 of 2005

G.Nesamani

.. Petitioner

- Vs. -

1.The Secretary to Government,
Highways Department,
Fort St. George,
Chennai-600 009.

2.The District Collector,
Chennai District,
Chennai.

3.The Tahsildar,
Perambur Purasawalkam Taluk,
Perambur,
Chennai-600 011.

4.The Divisional Engineer,
Highways Department,
Chennai High Roads,
Teynampet,
Chennai-600 018.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents not to interfere with the petitioner's peaceful possession and enjoyment of the petitioner's property namely, house, ground and premises bearing Plot No.13, Door No.921, 11th Street, Sivagami Ammaiya Colony, Vysarpadi, Chennai 600 039 situate in R.S. Survey No.776/1 Part, Block No.41, Perambur Village, Purasawalkam Taluk, Chennai District bounded on the North by Plot No.14, East by Plot No.0.35, South by Erukancheri High Road, West by 11th Street running East to West on the Northern side 19 feet, East to West on the Southern side 23 feet, North to South on the Eastern side 11 feet, 29.5, North to South Western side 34.5 feet admeasuring 66 square meter except due process of law.

For Petitioner : Mr.S.Chandrabose
For Respondents : Mr.Akhil Akbar Ali,
Government Advocate.

O R D E R

The relief sought for in this writ petition is for a direction to direct the respondents not to interfere with the petitioner's peaceful possession and enjoyment of the petitioner's property namely, house, ground and premises bearing Plot No.13, Door No.921, 11th Street, Sivagami Ammaiyar Colony, Vysarpadi, Chennai 600 039 situate in R.S.Survey No.776/1 Part, Block No.41, Perambur Village, Purasawalkam Taluk, Chennai District bounded on the North by Plot No.14, East by Plot No.0.35, South by Erukancheri High Road, West by 11th Street running East to West on the Northern side 19 feet, East to West on the Southern side 23 feet, North to South on the Eastern side 11 feet, 29.5, North to South Western side 34.5 feet admeasuring 66 square meter except due process of law.

2. The learned counsel for the writ petitioner states that the writ petitioner is the absolute owner of the house, ground and premises bearing Plot No.13, Door No.921, 11th Street, Sivagami Ammaiyar Colony, Vysarpadi, Chennai 600 039.

3. The authorities have made an attempt and was processing to demolish the property for the purpose of widening the road. In this regard, the writ petitioner made a representation and the same has not been considered by the respondents.

4. This Court is of the considered opinion that if the property of the writ petitioner is a private patta land, then the interference can be done by the Highways Authority only by following the due process of law. Even in case of acquisition, the authorities have to follow the procedures.

5. This apart, the respondents have to find out whether the land is a patta land or otherwise. In the event of identifying the classification of the land, all further actions are to be initiated.

6. The learned counsel for the writ petitioner states that the property of the writ petitioner is a private property. If so, in the event of any acquisition for the expansion of public road, suitable acquisition proceedings are to be initiated by following the procedures contemplated under law.

7. With the above clarifications, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

Svn
To

- 1.The Secretary to Government,
Highways Department,
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Chennai-600 009.
- 2.The District Collector,
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Chennai.
- 3.The Tahsildar,
Perambur Purasawalkam Taluk,
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Chennai-600 011.
- 4.The Divisional Engineer,
Highways Department,
Chennai High Roads,
Teynampet,
Chennai-600 018.

+1 CC to Mr.S.Chandrabose, Advocate sr 6078.
+1 CC to Govt. Pleader sr 6955.

WP No.28764 of 2005

KJI (CO)
SP(15/02/2019)

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