

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2019

CORAM :

THE HON'BLE MRS.VIJAYA K.TAHILRAMANI, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.10791 of 2018 and

W.M.P.No.12734 of 2018

K.Venkatesan

... Petitioner

Vs.

1.The Government of Tamil Nadu
rep by its Secretary,
Highways Department,
Fort St.George,
Chennai - 600 009.

2.The Divisional Engineer (H),
Construction & Maintenance,
Chennai Roads Division,
No.394/4, Anna Salai,
Saidapet, Chennai - 600 015.

3.The Commissioner,
Tambaram Municipality,
Tambaram, Chennai - 600 045.

4.The Deputy Superintendent of Police (Traffic),
St.Thomas Mount,
Chennai - 600 016.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of mandamus directing the respondents to consider and pass orders on the representation dated 26.12.2017 made by the petitioner for widening and for removing the unauthorized encroachments on the stretch originating from Tambaram Flyover to Mudichur covering the localities viz., West Tambaram, Lakshmipuram, Krishna Nagar, Bharathipuram, Old Perungalathur and Mudichur.

Petitioner : Mr.K.Venkatesan, party-in-person

For Respondents: Mr.V.Jayaprakash Narayanan,
Government Pleader (i/c) (R1, R2 & R4)
Mr.P.Srinivas (R3)

O R D E R

(ORDER OF THE COURT WAS MADE BY M.DURAI SWAMY, J.)

The petitioner has filed the above Writ Petition as a Public Interest Litigation to issue a Writ of mandamus directing the respondents to consider and pass orders on the representation dated 26.12.2017 made by the petitioner for widening and removing the unauthorized encroachments on the stretch originating from Tambaram Flyover to Mudichur covering the localities viz., West Tambaram, Lakshmipuram, Krishna Nagar, Bharathipuram, Old Perungalathur and Mudichur.

2.It is the case of the petitioner that the road originating from Tambaram flyover to Mudichur road has been encroached by several encroachers and that inspite of several representations given by him, the official respondents have not taken any action for the removal of the encroachment.

3.Pursuant to the status report dated 25.06.2018 filed by the 2nd respondent, the Division Bench of this Court passed the following order on 28.06.2018:

"...

8.In the light of the submissions made and in the facts and circumstances of the case, the following order of interim direction is passed:-

(i) The third respondent, namely the Commissioner, Tambaram Municipality, after putting the owners/occupiers on notice, shall cause inspection of the superstructures put up on either side of the road from Tambaram Flyover to Manimangalam Junction and submit a status report and also find out how many encroachers had encroached upon the public road. He is also directed to cause inspection of superstructures lie on either side of the road, which falls within their jurisdiction, after putting the occupiers/owners of the buildings on notice and to submit a report whether the structures are authorised/deviated/unauthorised.

(ii) The fourth respondent, namely the Deputy Superintendent of Police (Traffic) St. Thomas Mount, Chennai -16 is directed to deploy adequate traffic police personnel to regulate the traffic and book the violators and proceed in accordance with law.

(iii) The first respondent, namely the Secretary to Government, Government of Tamilnadu, Highways Department, shall personally cause inspection along with the second respondent, the stretch of road between Tambaram Flyover to Manimangalam Junction and file a status report as to the removal of constrains and other difficulties pointed out in the status report of the second respondent dated 25.06.2018."

4.As per the directions of this Court, the petitioner filed an affidavit indicating the specific locations of encroachment along the Tambaram - Mudichur Road.

5.The learned Government Pleader (i/c) filed a report dated 19.03.2019 addressed to him by the Assistant Divisional Engineer, Highways, wherein he has stated as follows:

Sl.N o.	Place of Encroachment as mentioned in the affidavit	Nature of encroachment as mentioned by the petitioner	Remarks of Highways
1.	At the beginning of Mudichur road near flyover bridge	Balavinayagar Temple - opposite to Kakkan Street	Revenue Authorities have been requested on 25.02.2019 to demarcate the boundary (copy enclosed)
2.	Platform at the building next to Indian Oil petrol bunk near Kakkan Street	Platform fully encroached by the traders	Encroachment evicted on 25.02.2019 and 02.03.2019
3.	Opposite to Indian Oil petrol bunk near Kakkan Street	Platform fully encroached by the traders/shopkeeper s	Encroachment evicted on 25.02.2019 and 02.03.2019
4.	Kulam Bus stop	Platform is fully encroached by shopkeepers	Encroachment evicted on 25.02.2019 and 02.03.2019

5.	Lakshmipuram Bus stop	On both the sides of Platforms fully encroached by shop keepers/traders	Encroachment evicted on 25.02.2019 and 02.03.2019
6.	Krishna Nagar	On both the sides at Krishna Nagar bus stop shop keepers/traders encroached the platform as well as the road by allowing the customers to park their vehicles.	Encroachment evicted on 25.02.2019 and 02.03.2019
7.	Krishna Nagar	Tambaram Municipality compound is constructed encroaching the road	The said compound wall falls in patta land
8.	Maduravoyil bypass junction	Road is very much narrow	There are no encroachments in said location. Further widening of road requires land acquisition
9.	Sunnambu Kalvoi Bus stop	On both the sides of road encroachments by the shopkeepers/traders	Encroachment evicted on 25.02.2019 and 02.03.2019
10.	Padmavathy Kalyana Mandapam	On both the sides of road encroachments by the shopkeepers/traders	Encroachment evicted on 25.02.2019 and 02.03.2019
11.	Old Perungalathur Nagar Bus stop	A building was constructed on the middle of the road	Mentioned building falls in patta land

12.	Parvathy Nagar Bus stop	On both the sides of road encroachments by the shopkeepers/traders	Temporary encroachments evicted. However, Tahsildar, Tambaram has been requested to mark the encroachments from Mudichur to Manni-vakkam junction on 01.02.2019 (copy of the letter enclosed) Encroachments demarcated on 28.02.2019 near Mani-mangalam junction, with the help of Revenue Officials (photograph enclosed)
13.	Arial View of Mudichur road	To show how narrow the stretch of Mudichur Road	-
14.	Gandhi Road	This is the road leading to Mudichur road. A temple is constructed on the middle of the road.	Road is being maintained by Tambaram Municipality.

6. From the above, it is clear that the location mentioned by the petitioner in Gandhi Road is being maintained by the Tambaram Municipality. Further, the 2nd respondent has stated that the temporary encroachments along the road are being evicted then and there and also the encroachments near Tambaram Flyover and service road were removed on 07.03.2019. Since the respondents have removed the encroachments, except the Balavinayagar Temple opposite to Kakkan Street for the reason the 2nd respondent has requested the Revenue Authorities to demarcate the boundary and with regard to the Krishna Nagar where the Tambaram Municipality has constructed a road and the said compound wall falls in a patta land.

7.It is needless to say that the respondents shall not allow any encroachment in the road between Tambaram and Mudichur. The respondents shall ensure that no encroachment is made by anyone in the said road in future.

8.With these observations, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CCC)

//True copy//

Sub Assistant Registrar

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To

- 1.The Secretary,
Government of Tamil Nadu,
Highways Department,
Fort St.George,
Chennai - 600 009.
- 2.The Divisional Engineer (H),
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Tambaram, Chennai - 600 045.
- 4.The Deputy Superintendent of Police (Traffic),
St.Thomas Mount,
Chennai - 600 016.

+1cc to Mr.P.Srinivas, Advocate SR.No.26590

+1cc to Mr.K.Venkatesan, Advocate SR.No.27043

+1cc to Government Pleader SR.No.26790

W.P.No.10791 of 2018 and
W.M.P.No.12734 of 2018

VBA (CO)
GMY (12/04/2019)