



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.07.2019

CORAM:

WEB COPY

**THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU
AND
THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P(MD)NO.13631 OF 2019

and

W.M.P(MD)Nos.10203 to 10205 of 2019

S.Sampath

:Petitioner

.vs.

1.The District Surveyor,
Tirunelveli District,
Tirunelveli.

2.The Deputy General Manager(T),
Projects Director,
National Highways Authority of India,
Project Implementation Unit,
Madurai.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned letter dated 15.5.2019 on the file of the second respondent and to quash the same as illegal and consequently to forbear the second respondent from evicting the Petitioner's building situated in S.No.341, Thandaiyarkulam Village, Panagudi, Radhapuram Taluk, Tirunelveli District without conducting survey and without following the procedure as contemplated under Section 26 of the Control of National Highways(Land and Traffic) Act, 2002.

For Petitioner

:Mr.T.Lajapathi Roy

For Respondent-1

:Mr.VR.Shanmuganathan
Special Govt.Pleader

For Respondent-2

:Mr.C.Arulvadivel @
Sekar

O R D E R

<https://hcservices.ecourts.gov.in/hcservices/> Order of the Court was made by **SENTHILKUMAR RAMAMOORTHY .,J.]**

This Writ Petition is filed challenging the order, dated



15.5.2019 issued by the second respondent herein and directing the Petitioner herein to remove the unauthorized occupation on the National Highways within one week from the date of the notice.

2. Heard the learned counsel appearing for the petitioner and Mr. VR. Shanmuganathan, learned Special Government Pleader appearing for the first respondent and Mr. C. Arul Vadivel @ Sekar, learned counsel appearing for the second respondent/National Highways.

3. The learned counsel for the Petitioner submitted that the Petitioner is the owner of the property measuring an extent of 1.24 acres in S.No.341, Thandaiyarkulam Village, Panagudi, Rahdapuram Taluk, Tirunelveli District and that he also holds patta in respect of the said property. Therefore, the Petitioner was shocked to receive the impugned order, dated 15.5.2019 alleging encroachment on the land belonging to the National Highways.

4. In response, the learned counsel for the second respondent submits that although the said notice was issued directing removal of encroachment within one week, sufficient opportunity would be given to the Petitioner and that further action would be taken only after personal hearing.

5. A counter affidavit has also been filed, wherein, it is expressly stated that sufficient opportunity would be given to the Petitioner including personal hearing, before taking further action.

6. In view of the above-mentioned submission of the learned counsel for the second respondent and the undertaking to that effect in the counter affidavit, this Court, without expressing any view on the merits of the dispute and the rival contentions made by the respective parties, directs the Petitioner herein to submit his objections/explanations in respect of the impugned notice, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such objections/explanations, the second respondent shall consider the same and pass orders on merits and in accordance with law within a period of two weeks thereafter.

7. With the above directions, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AD I)

// True Copy //

Sub Assistant Registrar (CS)



To

1.The District Surveyor,
Tirunelveli District,
Tirunelveli.

2.The Deputy General Manager(T),
Projects Director,
National Highways Authority of India,
Project Implementation Unit,
Madurai.

1 CC to M/s.C.ARUL VADIVEL @ SEKAR, Advocate (SR-72417[F] dated
01/07/2019)

+1 CC to M/s.SPL GP (SR-72910[F] dated 02/07/2019)

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