



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.03.2019

CORAM:

WEB COPY

**THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM
AND
THE HONOURABLE MRS. JUSTICE R.THARANI**

Writ Petition (MD)No.5910 of 2019
and
W.M.P. (MD).No.4739 of 2019

M.Muniyappan

.. Petitioner

Vs.

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Tahsildar,
Srivilliputhur Taluk,
Srivilliputhur.

3.The Assistant Divisional Engineer (Highways)
Construction and Maintenance
Srivilliputhur Division,
Srivilliputhur.

..Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for the issuance of a writ of Certiorarified mandamus to call for the records on the file of the 3rd respondent in connection with the impugned Eviction Notices issued by him vide his proceedings in Ka.No.365/2019/Va/dated 4.2.2019 and 26.2.2019 and quash the both as illegal and arbitrary and consequently direct the Respondents to survey the land situated in S.No.157B of Alagapuri Village, Vadugapatti Panchayat, Srivilliputhur Taluk by providing notice to the Petitioner as well as other interested persons as contemplated in Sec.6 of "The (Tamil Nadu) Survey and Boundaries Act, 1923" and thereby direct the respondents to take appropriate action for removal of encroachment made in the highway of the 3rd respondent.

For Petitioner
For Respondents

: Mr.G.Thalaimuthrasu
:Mr.VR.Shanmuganathan
Special Govt. Pleader

**ORDER**

[Order of the Court was made by **K.KALYANASUNDARAM, J**]

The writ petition has been filed, challenging the eviction notice issued by the third respondent in his proceedings in Ka.No.365/2019/Va/dated 4.2.2019 and 26.2.2019 and for a direction to take appropriate action to remove the encroachment made in the highway and to direct the respondents to survey the land in S.No.157B of Alagapuri Village, Vadugapatti Panchayat, Srivilliputhur Taluk.

2.The case of the petitioner is that he owns agricultural land measuring an extent of 4 acres and 16 cents in Sy.Nos.157A, 157B/1A5, 157B/4B1, 157B/5, 164/1A1, 164/1A3, 51/2C and 56/2 and he is running a Cycle-Stand and Two Wheelers Parking by putting up small shed. Whiles, the third respondent has issued the impugned notice alleging that he encroached the public road in Sy.No.157B.

3.Mr.G.Thalaimutharasu, learned counsel for the petitioner would argue that the impugned notice is liable to be set aside on the sole ground that without issuing show cause notice and conducting a survey, the order was passed.

4.It is the case of the petitioner that before issuing impugned notice, no survey was conducted.

5.Mr.V.R.Shanmuganathan, learned Special Government Pleader, on instructions would state that the respondent has conducted a survey and they are having proof for the same.

6.However, considering the grievance expressed by the petitioner, this Court is of the opinion that it would be appropriate to direct the second respondent to conduct a survey in the land in Sy.No.157B of Alagapuri Village in the presence of the petitioner and if there is any encroachment found, the third respondent is entitled to remove the same, without passing any further orders. It is also stated that apart from the petitioner, there are 24 encroachers in the public road and they were also issued with similar notices.

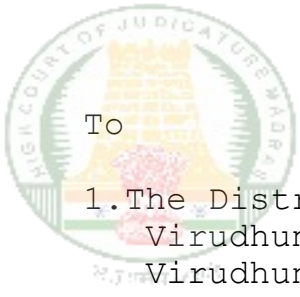
7.Accordingly, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CRL.SIDE)

/True Copy/

Sub Assistant Registrar



To

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Tahsildar,
Srivilliputhur Taluk,
Srivilliputhur.

3.The Assistant Divisional Engineer (Highways)
Construction and Maintenance
Srivilliputhur Division,
Srivilliputhur.

+1cc to Mr.G.Thalaimuthrasu, Advocate, SR.No.54050

+1cc to Special Government Pleader, SR.No.53962

Writ Petition (MD)No.5910 of 2019
13.03.2019

SP/28.03.2019/ 3P/6C