



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.09.2019

CORAM:

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE Mrs.JUSTICE R.THARANI

W.P.(MD).Nos.20627, 20650, 20685, 20686 & 20688 of 2019

and

WMP(MD)Nos.17254 & 17255 of 2019

WMP(MD)Nos.17272, 17274 & 17277 of 2019

WMP(MD)Nos.17320 & 17321 of 2019

WMP(MD)Nos.17305 & 17306 of 2019

WMP(MD)Nos.17308 & 17310 of 2019

P. Rameshkannan	... Petitioner in WP(MD). 20627/ 2019
P. Murugapandian	... Petitioner in WP(MD). 20650/ 2019
Kalpana	... Petitioner in WP(MD). 20685/ 2019
Satheeswaran	... Petitioner in WP(MD). 20686/ 2019
Ukkirapandi	... Petitioner in WP(MD). 20688/ 2019

- VERSUS. -

1. The District Collector
Velunatchiyar Valagam,
Collectorate Building, Dindigul.

2. The District Revenue Officer
Velunatchiyar Valagam,
Collectorate Building, Dindigul.

3. The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Near Radio Station Road,

<https://hcservices.ecourts.gov.in/hcservices/>



Kodaikanal Taluk, Dindigul.

4. The Tahsildar

Kodaikanal Taluk, Kodaikanal ,
Dindigul District.

5. The Superintending Engineer

Highways Department,
Dindigul Division, Dindigul.

6. The Assistant Divisional Engineer,

Athur Tk, Athur at Sempatti,
Dindigul District, Dindigul.

7. S. Jeyaram

S/o. S.K. Subbiah,
No.34/49 Mannar 2nd Street,
Vadapalani, Chennai.

... Respondents in WP(MD). 20627 and 20650/ 2019

1. The District Collector

Collectorate Building, Dindigul District.

2. The Tahsildar

Kodaikanal Tk, Dindigul District.

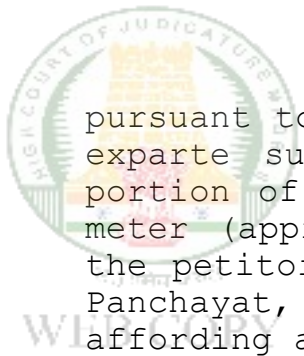
3. The Assistant Divisional Engineer (Highways),

Construction and Maintenance,
Authoor, Dindigul District.

... Respondent in WP(MD). 20685, 20686 and 20688/ 2019

Prayer in WP(MD). 20627/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Calling for the records of the Respondents 1 to 6 resulting in the 6th Respondents impugned notice dated 21-08-2019 issued in Memo No.17/2019/E.Va.A 28 and quash the same and forbearing the respondents 1 to 6 from proceedings further



pursuant to the issuance of the impugned notice and on the basis of exparte survey conducted by the 4th Respondents to demolish the portion of petitioners property to an extent of 5.00 meter X 8.00 meter (approximately 1 cent) by way of encroachment in respect of the petitioner's property situated at Kuppammalpatti post, K.C.Patti Panchayat, Via Perumparai, Kodaikanal Tk, Dindigul District without affording all sort of reasonable opportunity as per the direction of this Honourable Court in Para No.4 of the Order dated 08.04.2019 passed in WP(MD)No.5668 of 2019 by considering the Petitioner's representation dated 21/09/2019 given to the Respondents 1 to 6 and also passed an appropriate order after considering the title document of the Petitioner.

Prayer in WP(MD). 20650/ 2019 :

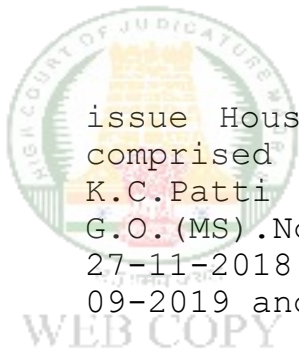
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Call for the records of the Respondents 1 to 6 resulting in the 6th Respondents impugned notice dated 21-08-2019 issued in Memo No.17/2019/E.Va.A10 and quash the same and forbearing the respondents 1 to 6 proceedings further pursuant to the issuance of the impugned notice and on the basis of exparte survey conducted by the 4th Respondent to demolish the portion of petitioners property to an extent of 4.35 meter X 8.50 meter by way of encroachment in respect of the land in Survey No.402/4 situated at Kuppammalpatti post, K.C.Patti, Panchayat, Via Perumparai, Kodaikanal Tk, Dindigul District without affording all sort of reasonable opportunity as per the direction of this Honourable Court in Para -4 of the Order dated 08.04.2019 passed in WP(MD)No.5668 of 2019 by considering the Petitioner's representation dated 21/09/2019 given to the Respondents 1 to 6 and also passed an appropriate order after considering the title document of the Petitioner.

Prayer in WP(MD). 20685/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Calling for the records pertaining to the Impugned Notice issued by the 3rd Respondent herein in his Memorandum No.17/2019/EVaA-40, dated 21-08-2019 and quash the same as illegal and consequently direct the respondents No.1 and 2 to issue House Patta in respect of House property in Door No.4-1-49 comprised in Survey No.402 situated at Kuppammalpatti Village, K.C.Patti panchayat Union, Kodaikanal Tk, Dindigul District as per G.O.(MS).No.465, Revenue and Disaster Management Department dated 27-11-2018 by considering the petitioners representation dated 20-09-2019 and for other reliefs.

Prayer in WP(MD). 20686/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Calling for the records pertaining to the Impugned Notice issued by the 3rd Respondent herein in his Memorandum No.17/2019/EVaA-66, dated 21-08-2019 and quash the same as illegal and consequently direct the respondents No.1 and 2 to



issue House Patta in respect of House property in Door No.4-3-64 comprised in Survey No.402 situated at Kuppammalpatti Village, K.C.Patti panchayat Union, Kodaikanal Tk, Dindigul District as per G.O.(MS).No.465, Revenue and Disaster Management Department dated 27-11-2018 by considering the petitioners representation dated 20-09-2019 and for other reliefs.

Prayer in WP(MD). 20688/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Calling for the records pertaining to the Impugned Notice issued by the 3rd Respondent herein in his Memorandum No.17/2019/EVaA-34, dated 21-08-2019 and quash the same as illegal and consequently direct the respondents No.1 and 2 to issue House Patta in respect of House property in Door No.4-1-43 comprised in Survey No.402 situated at Kuppammalpatti Village, K.C.Patti panchayat Union, Kodaikanal Tk, Dindigul District as per G.O.(MS).No.465, Revenue and Disaster Management Department dated 27-11-2018 by considering the petitioners representation dated 20-09-2019 and for other reliefs.

**Mr.V.R.Venkatesan, Advocate for the Petitioner
in WP(MD)No. 20627 and 20650 of 2019**

**Mr.J.Lawrance, Advocate for the Petitioner
in WP(MD)No. 20685, 20686 and 20688 of 2019**

**Mr.A.Muthukaruppan,
Additional Government Pleader on behalf of the Respondents
1 to 6 in WP(MD)No. 20627 and 20650 of 2019
and all the Respondents in WP(MD)No. 20685,
20686 and 20688 of 2019**

COMMON ORDER

(Order of this Court was made by **T.S.SIVAGNANAM, J**)

We have heard Mr.V.R.Venkatesan and Mr.J.Lawrance, learned counsels appearing for the petitioners and Mr.A.Muthukaruppan, learned Additional Government Pleader and Mr.A.K.Baskarapandian, learned Special Government Pleader accepting Notice for the official respondents.

2. By consent of either side, the Writ Petitions are taken up for final disposal.

3. The petitioners are before this Court challenging the Notice issued by the Assistant Divisional Engineer (Highways), Construction and Maintenance, Authoor, Dindigul District, calling upon the petitioners to vacate the encroachments caused by them in the road margin. The impugned Notice has given 3 days time to the petitioners to vacate.



4. It is submitted by the learned counsels for the petitioners that the eviction Notice issued to the petitioners is on account of a Writ Petition filed by one S.Jeyaram in W.P.(MD)No.5668 of 2019, which was disposed of on 08.04.2019, in which, the petitioners and other persons, who are in occupation of the land have not been impleaded, as respondents. Therefore, it is submitted that the action of the Assistant Divisional Engineer (Highways), in threatening to forcibly remove the petitioners is arbitrary and 15 days notice given to the petitioners is thoroughly inadequate and unreasonable.

5. The Learned Special Government Pleader and the learned Additional Government Pleader, who have accepted notice on behalf of the respondents, submitted that this Court directed the representation to be considered and after taking note of the representation and after taking note of the report of the Tahsildar, Kodaikanal, dated 17.05.2019 and the Revenue Divisional officer, dated 22.06.2019, Notices were issued by the Assistant Divisional Engineer (Highways), under the Tamil Nadu Highways Act, 2001. The impugned Notices before this Court are final notices and the petitioners did not take any action pursuant to the earlier Notice issued by the Assistant Divisional Engineer (Highways). Therefore, it is submitted that the encroachments on the road margin have to be removed.

6. The learned counsels appearing for the petitioners in reply would submit that the petitioners are landless poor agricultural coolies and they have been residing in the said place for several years, for more than two generations. The petitioners in W.P.(MD)Nos.20685, 20686 and 20688 of 2019 have submitted representations to the District Collector, Dindigul, by placing reliance on G.O.(Ms)No.465, Revenue and Disaster Management Department, dated 27.11.2018, wherein the Government has taken a decision to grant alternate accommodation to the encroachers, who have encroached the Government land and residing for several years.

7. After elaborately hearing the learned counsels for the parties and carefully perusing the materials placed before us in these writ petitions, we find that there is no vested right for the petitioners to continue in occupation of the Government land, more particularly, the land classified as a State Highway. Therefore, the petitioners have to necessarily vacate the premises and they should relocate themselves in a different location. Parallely, it is open to the petitioners to pursue their representations before the District Collector, which is stated to have been given on 20.09.2019. However, it is not clear as to the manner in which the representations were given whether it was handed over in person to the Collectorate or otherwise.



8. The learned Special Government Pleader appearing for the respondents submitted that eviction has to be carried out on 26.09.2019.

9. Considering the fact that most of the petitioners are living below the poverty line and they are in occupation of the Highways land for quite sometime, it will be appropriate to grant reasonable time to the petitioners to voluntarily vacate and surrender the vacant possession of the land.

10. We hold that 60 days time could be a reasonable period for the petitioners to voluntarily vacate and hand over the possession. This indulgence will be available to the petitioners and other encroachers, who filed an affidavit, agreeing to vacate and surrender the land, within a period of 60 days, as stipulated by this Court and such undertaking should be given to the Assistant Divisional Engineer (Highways), Dindigul District. Parallely, we permit the petitioners to approach the District Collector, Dindigul District, by way of representations, for grant of free house site patta, in accordance with the procedures stipulated by the Government, till then, no coercive action be initiated against the petitioners. The District Collector shall consider the representations of the petitioners, in accordance with law, within a period of four weeks from the date of receipt of representation.

11. In the event, the petitioners and other encroachers do not give the undertaking, as directed by this Court, upon the expiry of 60 days period, which shall be computed from the date on which the copy of this order is received, shall be evicted by the respondents.

12. The Assistant Divisional Engineer (Highways), Dindigul, is directed to intimate the other encroachers, who have not filed the Writ Petition, about the direction issued in these cases.

13. With the above direction, these Writ Petitions are disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

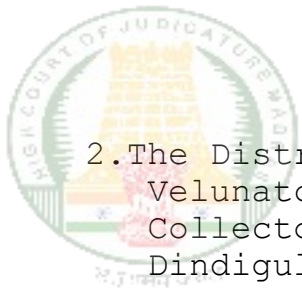
Sd/-
Assistant Registrar

/TRUE COPY/

Sub Assistant Registrar

To

1.The District Collector,
Velunatchiyar Valagam
Collectorate Building,
Dindigul.



2.The District Revenue Officer,
Velunatchiyar Valagam
Collectorate Building,
Dindigul.

3.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Near Radio Station Road,
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Dindigul.

4.The Tahsildar,
Kodaikanal Taluk,
Kodaikanal,
Dindigul District.

5.The Superintending Engineer,
Highways Department,
Dindigul Division,
Dindigul.

6.The Assistant Divisional Engineer,
Athur Taluk
Athur at Sempatti,
Dindigul District,
Dindigul.

+1 CC to M/s.V.R.VENKATESAN, Advocate (SR-89171[F] dated 25/09/2019)

**W.P. (MD) .Nos.20627, 20650, 20685,
20686 & 20688 of 2019**
25.09.2019

mpk

JM/25.09.2019/7P/8C