



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **06.11.2019**

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

WEB COPY

W.P(MD)Nos.23348, 23354, 23362, 23371, 23373, 23375 and 23390 of 2019

and

W.M.P(MD)Nos.20014 to 20017, 20021, 20023, 20028 to 20030, 20033, 20034, 20042 and 20044 of 2019

W.P(MD)No.23348 of 2019:

M.Noordeen Sait	... Petitioner in WP(MD)No. 23348/ 2019
N.Palanichamy	... Petitioner in WP(MD)No. 23354/ 2019
P.Veeramalai	... Petitioner in WP(MD)No. 23362/ 2019
E.Seenivasan	... Petitioner in WP(MD)No. 23371/ 2019
R.Ramasamy	... Petitioner in WP(MD)No. 23373/ 2019
E.Jayaraman	... Petitioner in WP(MD)No. 23375/ 2019
R.Natarajan	... Petitioner in WP(MD)No. 23390/ 2019

Vs.

The Assistant Engineer,
Highways Department,
(Construction and Maintenance),
Aravakurichi,
Karur District.

... Respondent (in All Cases)

COMMON PRAYER IN W.P(MD)Nos.23348, 23354, 23362, 23371, 23373, 23375 and 23390 of 2019: Writ Petition is filed under Article 226 of the Constitution of India ,praying this Court to calling for the records relating to the impugned order passed by the respondent in his proceedings Nil dated 14.10.2019 and quash the same as illegal and arbitrary.

For Petitioner : Mr.B.Saravanan (in All Cases)

For Respondent : Mr.A.Muthukaruppan,
Additional Government Pleader
(in All Cases)



COMMON ORDER

[Order of this Court was made by **T.S.SIVAGNANAM, J.**]

We have heard Mr.B.Saravanan, learned counsel appearing for the petitioners and Mr.A.Muthukaruppan, learned Additional Government Pleader appearing for the respondent.

2. There are seven writ petitioners before us challenging the notices issued by the respondent directing them to remove the encroachments in road margin/highway line, within seven days from the date of receipt of notice.

3. The petitioners are before us stating that the constructions put up by them are in patta land and without following the procedure, without issuing notice and without conducting measurement, all of a sudden, the respondent has issued the impugned notices.

4. The observations made by us in the order dated 06.03.2018 passed in W.P(MD)No.4613 of 2018 filed by one Palaniappan, is the cause for issuing the impugned notices. The said Palaniappan challenged the notice issued by the respondent herein dated 27.02.2018. After elaborately hearing the parties, we were of the considered view that the said Palaniappan deserves no indulgence and the so called documents produced by him, can in any manner support his claim ie., he is entitled to be in possession of the land vested with the Highways Department. Therefore, we directed that the encroachments should be removed and taking note of the prayer made by the petitioner before the Court, we granted seven days time and dismissed the writ petition with a further direction to the said Palaniappan to remove the offending structure on or before 19.03.2016, failing which, directed the respondents therein to evict the petitioner. We are informed that the said Palaniappan has been evicted and encroachments have been removed.

5. During the course of hearing, the learned counsel for the said Palaniappan stated that his client alone has been targeted and there are several other encroachments. Taking note of the said submission and also the information placed before this Court by the respondent in a tabulated format, wherein it was stated that there are 40 such encroachers, we made an observation that no discrimination can be made against the encroachers. This observation has resulted in the impugned notices. However, before issuing the impugned notices, measurement should have been taken and the offending encroachments should have been demarcated and at first, opportunity should have been granted to the encroachers to remove the encroachments themselves and in case of no steps taken in spite of giving reasonable time to remove the encroachment, demolition should have been done by the respondent.



6. We find that the respondent has issued the impugned notices stating that within seven days encroachments should have been removed. However, this should have been proceeded by an inspection indicating the extent of encroachments. Therefore, we direct the respondent to inspect the entire road stretch after issuing notice to all the persons in occupation of shops, houses etc., on either side of the road and information shall also be given through Public Address System and road margin shall be measured and the encroached portions shall be marked in red colour and all the encroachers be given ten days time to remove the encroachments by themselves, failing which, the same shall be removed departmentally and the cost be recovered from the concerned encroachers.

7. In the light of the above directions, no coercive action should be initiated pursuant to the notice issued by the respondent. Though other persons have not approached this Court, directions issued in this order will apply to them as well and the respondent shall implement the same.

With the above directions, the writ petitions are disposed of. No Costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CO)

/ True Copy /

Sub Assistant Registrar(CS-)

To
The Assistant Engineer,
Highways Department,
(Construction and Maintenance),
Aravakurichi, Karur District.

+1 CC to M/s.SPL GP (SR-96648[F] dated 07/11/2019)

+7 CC to M/s.B.SARAVANAN, Advocate (SR-96611[F] dated 07/11/2019)

ORDER MADE IN
W.P (MD) No.23348 of 2019
06.11.2019

pm
ES/15.11.2019/3P/10C