



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **27.11.2019**
CORAM:

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE Mrs.JUSTICE R.THARANI

W.P. (MD) .No.25227 of 2019
and
WMP (MD) .No.21810 of 2019

Singari @ Veerammal ... Petitioner

Vs.

1.The Divisional Engineer,
Highways Department,
Theni District.

2.The Assistant Divisional Engineer,
Highways Department,
Construction & Maintenance,
Uthamapalayam Taluk,
Theni District.

3.R.Ondiveeran ... Respondents

PRAYER: This petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records in connection with the impugned order passed by the 2nd respondent in Ku.No.85(2)2019/A1/dated 14.11.2019, quash the same as illegal and consequently direct the respondents 1 and 2 not to evict the petitioner from the place in Survey No.328/1B in SPK Road, Min Nagar, Chinnamannur, Theni District.

For Petitioner : Mr.D.Anbarasu

For Respondent : Mr.A.K.Baskarapandian
(R1 & R2) Spl.Govt.Pleader

O R D E R

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

Heard Mr.D.Anbarasu, the learned counsel appearing for the petitioner and Mr.A.K.Baskarapandian, the learned Special Government Pleader for the respondents 1 & 2.



2. The petitioner has filed this Writ Petition challenging the notice issued by the 2nd respondent, Assistant Divisional Engineer, Highways Department, stating that the petitioner has encroached the Highways land and calling upon her to remove the encroachment within 7 days.

3. We find that the notice is based upon a complaint given by one R.Ondiveeran, the 3rd respondent herein. The 3rd respondent had filed a Writ Petition in W.P.(MD)No.23879 of 2019, for removal of encroachment and in the said writ petition, the petitioner herein had been impleaded as 11th respondent and she has received notice and the matter is to be heard on 10.12.2019.

4. Be that as it may, from the impugned notice we find that there is absolutely no details of extent of encroachment nor the survey number of land etc. When the 2nd respondent issues notice, full particulars should be given and before issuing notice, an inspection should have been conducted. If that had been done, the petitioner had to definitely vacate and hand over the possession.

5. In fact, a similarly placed person, by name, Rajamani S/o.Ponniah Thevar had filed a writ petition before this Court in W.P.(MD)No.2603 of 2011 for quashing similar notices issued in the year 2011, by the Highways Department. In that writ petition, the said P.Rajamani had given an undertaking stating that if the land is required for road widening he will handover the same. The said undertaking given by the said petitioner therein was placed on record and the writ petition was disposed of directing that the land should be handed over as and when road widening is undertaken.

6. The order passed in the writ petition clearly shows that the land in question is Highways land. If that is so, the petitioner before us also cannot resist any proceedings initiated by the Highways Department. However, since we find that the extent of encroachment has not been clearly mentioned in the impugned notice, we are inclined to interfere with the impugned notice.

7. Accordingly, we set aside the impugned notice and direct the area to be inspected and wherever there is encroachment, reasonable time may be given to the encroachers, including the petitioner, to remove the encroachments. If they do not remove the encroachments within the time prescribed by the 2nd respondent, action be initiated by the Department to remove the encroachment. We are informed by the learned Special Government Pleader that inspection has been conducted by the authority today (27.11.2019). The said submission is placed on record.



8. With the above direction, the Writ Petition stands disposed of. No costs. Consequently, the miscellaneous petition is closed.

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Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS)

MPK

To

1.The Divisional Engineer,
Highways Department,
Theni District.

2.The Assistant Divisional Engineer,
Highways Department,
Construction & Maintenance,
Uthamapalayam Taluk,
Theni District.

+1 CC to Mr.D. ANBARASU, Advocate (SR-101837[F] dated 27/11/2019)
+1 CC to SPL GP (SR-102420[F] dated 28/11/2019)

**W.P. (MD) .No.25227 of 2019
27.11.2019**

MK (17.12.2019) 3P 5C