



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.02.2020

CORAM:

**THE HONOURABLE MR.JUSTICE M.DURAI SWAMY
AND**

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

W.P (MD) Nos.3958, 3960, 3962, 3963 & 3964 of 2020

and

W.M.P (MD) Nos.3359, 3362, 3363, 3364 & 3368 of 2020

Singari @ Veerammal	... Petitioner in W.P(MD)No.3958/2020
Sasikumar	... Petitioner in W.P(MD)No.3960/2020
Kodi Arasan	... Petitioner in W.P(MD)No.3962/2020
Muthuvanam	... Petitioner in W.P(MD)No.3963/2020
Mayilthai	... Petitioner in W.P(MD)No.3964/2020

Vs.

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

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

... Respondents in all W.Ps'

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the entire records in connection with the impugned orders passed by the second respondent dated 15.02.2020, quash the same as illegal and consequently direct the respondents 1 and 2 not to evict the petitioners from the place in Survey No.328/1B in Ward No.17, Min Nagar, SPK Road, Chinnamannur, Theni District.

For Petitioner
(in all W.Ps')

: Mr.D.Anbarasu

For Respondents
(in all W.Ps')

: Mr.J.Gunaseelan Muthiah,
Additional Government Pleader.



ORDER

(Order of the Court was made by **M.DURAISWAMY, J.**)

The petitioners have filed the above Writ Petition to issue Writs of Certiorarified Mandamus, to call for the entire records in connection with the impugned orders passed by the second respondent dated 15.02.2020 and to quash the same and consequently directing the respondents 1 and 2 not to evict the petitioners from the place in Survey No.328/1B in Ward No.17, Min Nagar, SPK Road, Chinnamannur, Theni District.

2.By the impugned notices dated 15.02.2020, the second respondent called upon the petitioners to vacate and hand over the possession of the encroached land, which is a Highways land.

3.The learned counsel appearing for the petitioners submitted that the land in question does not belong to the Highways Department and it is a cart track. Further, the learned counsel submitted that the authorities are not evicting all the encroachers and they pick and chose while evicting the encroachers.

4.With regard to the contention of the petitioners that whether the land in question is a cart track or a land belonging to the Highways Department, in the earlier Writ Petition in W.P(MD)No.25227 of 2019 by order dated 27.11.2019, the Division Bench of this Court observed as follows:

'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 second 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.'

5.From the above, it is clear that the land in question is a Highways land. The order passed in the Writ Petition has become final and therefore, the petitioners cannot now take a stand that it is a cart track.

6.On an earlier occasion, the Division Bench of this Court set aside the notices issued to the petitioners in W.P(MD)No.25227 of 2019 on the ground that the second respondent has not given the details of the land and the extent of the land, which was encroached by her and also on the ground that no survey was conducted by the authorities. In the very same order, the Division Bench recorded the submissions made by the learned Special Government Pleader that inspection was conducted by the authorities on the date of passing of the order ie., 27.11.2019.

7.In the present impugned notices, dated 15.02.2020, the second respondent has given the details of the land which were encroached by the petitioners. Therefore, we do not find any infirmity in the notices issued by the second respondent. So far as the removal of encroachment is concerned, Mr.J.Gunaseelan Muthiah, learned Additional Government Pleader appearing for the respondents submitted that the respondents would evict all the encroachers, who have encroached the Highways land and they will not single out the petitioners alone.

8.The submissions made by the learned Additional Government Pleader is recorded.

9.For the reasons stated above, we do not find any irregularity in the impugned notices issued by the second respondent. Accordingly, the Writ Petitions are devoid of merits and the same are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



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 M/s.Special Govt.Pleader (SR-8765[F] dated 27/02/2020)

+1 CC to M/s.D.ANBARASU, Advocate (SR-8492[F] dated 26/02/2020)

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3962, 3963 & 3964 of 2020
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ps

SDS (11.03.2020) 4P-5C