



WEB COPY

W.P(MD)No.8021 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18/08/2020

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.P.(MD)No.8021 of 2020

and

W.M.P.(MD)No.7449 of 2020

Pachayappa High School,
Rep. by its Secretary, G.Lakshmivasan,
Uppukottai,
Bodinayakkanur Taluk,
Theni District.

... Petitioner

Vs.

1.The Assistant Divisional Engineer,
Tamil Nadu Highways,
Theni Division, Theni.

2.A.Muthuraj

3.A.Kaleeswari

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondent No.1 to remove the encroachment doing by the respondents No.2 and 3 in the Uppukottai - Theni Highways road margin in Uppukottai village, Theni District.

For Petitioner : Mr. R.Suryanarayanan

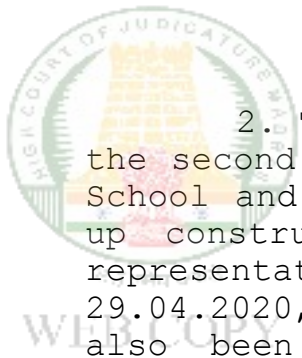
For Respondents : Mr.M.Muthugeethaiyan,
for R1
Mr.Prasanna Rajadurai for R2 and R3

* * * * *

O R D E R

[Order of the Court was made by **M.SATHYANARAYANAN, J.**]

The writ petitioner / School came forward to file this writ petition stating among other things that it a recognised private School, having the strength of about 500 students and it's existence are over 70 years and it is located in Survey Nos.361/3 and 361/2 of Uppukottai Village, admeasuring to an extent of 88.6 cents, respectively.



2. The grievance expressed by the petitioner / School is that the second and third respondents are having land in adjacent to the School and abutting to State Highways Road and they started to put up construction on Highway road margin and in this regard, a representation dated 29.10.2019 followed by a reminder dated 29.04.2020, was also sent and that apart, e-mail communication had also been send to the concerned official respondent to take necessary and appropriate action. Despite receipt and acknowledgement, nothing is taking place and therefore, the petitioner is constrained to approach this Court by way of filing this Writ Petition.

3. The writ petition was listed for hearing on 27.07.2020 and on that day, this Court has ordered notice to the respondents and when the matter is listed today, the counter affidavit of the first respondent dated 18.08.2020 has bee filed and a perusal of the same would disclose that the writ petitioner as well as the second respondent had encroached upon a portion of the road margin and accordingly, a notice dated 12.08.2020 under Section 28(2) of the Tamil Nadu Highways Act, 2001, had been issued to the writ petitioner as well as to the second respondent and further proceedings would follow.

4. In response to the said submission, the learned Counsel appearing for the writ petitioner would submit that in order to protect the play ground only the temporary structure has been put up and he undertakes to remove the same and however prays for appropriate action against the encroachment caused by the second respondent in accordance with law.

5. The learned Counsel appearing for the second respondent would submit that as and when the second respondent received notice dated 12.08.2020 under Section 28(2) of the Tamil Nadu Highways Act, 2001, he may be permitted to work out his remedy in accordance with law.

6. This Court has carefully considered the rival submissions and also perused the materials placed on record.

7. In the light of the stand of the counter affidavit of the first respondent, this Court directs the first respondent to proceed further in accordance with law in terms of the notice dated 12.08.2020, issued under Section 28(2) of the Tamil Nadu Highways Act, 2001, and also by adhering the principle of natural justice and complete the said exercise within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken to the writ petitioner as well as to the second respondent.



8. The writ petition stands disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

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// True Copy //

/ /2020

Sub Assistant Registrar(CS)

pkn

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Assistant Divisional Engineer,
Tamil Nadu Highways,
Theni Division, Theni.

+1 CC to Mr.NA.PALANIYANDI, Advocate SR-14370.

W.P. (MD)No.8021 of 2020

and

W.M.P. (MD)No.7449 of 2020

18/08/2020

CS (26.08.2020) 3P 3C