



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

AND

THE HONOURABLE MR.JUSTICE G.ILANGOVA

W.P(MD).Nos.19978 and 19979 of 2020

and W.M.P. (MD) No.16645 of 2020 in W.P. (MD) No.19978 of 2020

and W.M.P. (MD) Nos.16646 and 16647 of 2020

in W.P. (MD) No.19979 of 2020

WEB COPY

1. M.G.R.Nagar & J.J.Nagar
Kudiyirupoor Nalasangam,
Rep. by its President Mr.R.Mohan,
Pudukottai Main Road,
M.G.R.Nagar & J.J.Nagar,
Trichy.

... Petitioner in
W.P(MD).No.19978 of 2020

2. R.Marimuthu

... Petitioner in
W.P(MD).No.19979 of 2020

Vs.

The Assistant Divisional Engineer,
National Highway,
Tiruchirappalli.

... Respondent
[in both Writ Petitions]

PRAYER in W.P(MD).No.19978 of 2020: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, direction in the nature of Writ to forbear the respondent from in any way dispossessing the members of the petitioner's association from their respective places situated in Ward No.AE & AF, T.S.No.32, 20/1, 34 and 42 at MGR Nagar & J.J.Nagar, Jail Corner, Pudukottai Road, Trichy-20.

PRAYER in W.P(MD).No.19979 of 2020: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the impugned show cause notice passed by the respondent in his proceedings Nil dated 04.12.2020 and quash the same as illegal.

For Petitioner	:	Mr.Ajmal Khan, Senior Counsel for Ajmal Associates [in both Writ Petitions]
For Respondent	:	Mr.K.P.Krishnadoss, Special Government Pleader [in both Writ Petitions]



COMMON ORDER

[Order of the Court was made by P.VELMURUGAN, J.]

W.P(MD).No.19978 of 2020 has been filed to forbear the respondent herein, from in any way dispossessing the members of the petitioner's association from their respective places situated in Ward No.AE & AF, T.S.No.32,20/1,34 and 42 at MGR Nagar & J.J.Nagar, Jail Corner, Pudukottai Road, Trichy-20.

2. W.P(MD).No.19979 of 2020 has been filed challenging the impugned show cause notice passed by the respondent herein, in his proceedings Nil, dated 04.12.2020.

3. Mr.K.P.Krishnadoss, learned Special Government Pleader takes notice for the respondent in these writ petitions. Since the issues arose for consideration are one and the same and by consent, these writ petitions are taken up together for final disposal at the stage of admission itself.

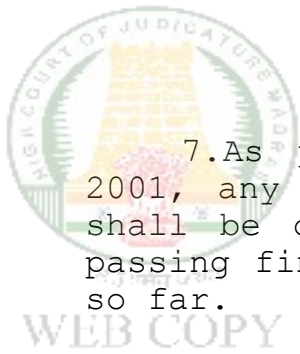
4. The learned Counsel for the petitioners would submit that the petitioner in W.P(MD).No.19979 of 2020 and the members of the MGR Nagar & J.J.Nagar Kudiyruppor Nalasangam, which is the petitioner in W.P(MD).No.19978 of 2020, are in possession and enjoyment of the respective site situated in Ward No.AE & AF, T.S.No.32,20/1,34 and 42, at MGR Nagar & J.J.Nagar, Jail Corner, Pudukottai Road, Trichy-20, for the past 40 years by constructing houses and by paying House Tax and Electricity charges. The applications for grant of patta are also pending consideration for quite a long time. In the meanwhile, on 04.12.2020, the respondent issued show-cause notices under Section 28(2)(ii) of the Tamil Nadu Highways Act, 2001, to give explanations as to why the encroachments should not be removed. On receipt of the said show-cause notices, the petitioners submitted explanations on 14.12.2020. Without considering the explanations, the respondent is trying to evict the petitioners from the said place without passing any final order.

5. This Court considered the rival submissions and perused the materials placed on record.

6. Section 28(2)(ii) of the Tamil Nadu Highways Act, 2001, reads as follows:-

"Removal of any immovable structure, whether permanent or temporary in nature, encroaching the highway or in the area vested with Government under this Act, after issuing a show cause notice against such removal, returnable within a period of seven days from the date of receipt thereof:

Provided that any representation received within the time limit shall be considered by the authority or officer concerned before passing final orders."



7.As per Section 28(2)(ii) of the Tamil Nadu Highways Act, 2001, any representation received within the time limit, the same shall be considered by the authority or officer concerned before passing final orders. The respondent has not passed any final order so far.

8.In view of the above, this Court, directs the respondent to consider the explanations given by the petitioners on 14.12.2020 and pass final orders in accordance with law.Till then, the respondent should not evict the petitioner in W.P.(MD) No.19979 of 2020 and the members of the petitioner association in W.P(MD).No.19978 of 2020. Even if they pass final order, evicting them, sufficient opportunity should be provided to them for vacating the place in accordance with law.

9.Accordingly, these Writ Petitions are disposed of. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-

Vacation Officer

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

pkn/sj

To

The Assistant Divisional Engineer,
National Highway,
Tiruchirappalli.

+1 CC to M/s.GP (SR-3[F] dated 04/01/2021)

+6 CC to M/s Ajmal Associates ,in SR.No.27378 & 27379.

**ORDER MADE IN
W.P(MD) .Nos.19978 and 19979 of 2020
30.12.2020**

(NS) CO

AP(05/01/2021) 3P 9C