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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2021

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THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND
THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

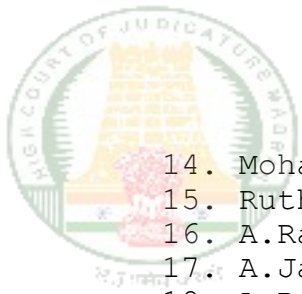
W.P.NO.3488 OF 2021
&
W.M.P.NO.3998 OF 2021

L.Shanthi

... Petitioner

.Vs.

1. The Principal Secretary,
The Government of Tamil Nadu,
Highways and Port Department,
Fort St. George,
Chennai - 600 009.
2. The District Collector,
Chennai District,
Chennai - 600 001.
3. The Divisional Engineer,
Highways (Construction & Maintenance),
Thiruvallur, Thiruvallur District.
4. The Assistant Divisional Engineer
(Estate Officer),
Highways (Construction & Maintenance),
Chennai - 600 053.
5. The Tahsildar,
Taluk Office,
Maduravoyal,
Chennai - 600 095.
6. S.Sheela
7. Allammal
8. D.Arave
9. Francis
10. P.Rajalingam
11. John Manohar
12. Sujatha
13. Sumathi



14. Mohan
15. Ruthramoorthy
16. A.Raja
17. A.Jaishankar
18. A.Ravikumar
(Respondents 6 to 18 impleaded as per
order of Court dated 09.07.2021 in
W.M.P.No.15222 of 2021 in W.P.No.3488
of 2021 by NKKJ & TVTSJ)

...Respondents

PRAYER:-

Petition under Article 226 of the Constitution of India
praying for issue of a Writ of Mandamus directing respondents
3 to 5 to remove the illegal encroachments on the public road
Viz Nerkundram Road (Madha Koil Street) comprised in S.No.83 and
other survey numbers in Nerkundram Village No.14, Maduravoil
Taluk, Chennai District.

For Petitioner :: Mr.R.Balachandran

For Respondents :: Mr.P.Balathandayutham,
State Government counsel
For R1, R2 & R5

Mr.N.G.R.Prasad for
Mr.R.Thirumoorthy for
R6 to R18

O R D E R

(Order of the Court was made by Justice N. Kirubakaran)

The matter is heard through videoconferencing.

2. The petitioner has come before this Court seeking issue
of a Writ of Mandamus directing respondents 3 to 5 to remove the
illegal encroachments on the public road Viz Nerkundram Road
(Madha Koil Street) comprised in S.No.83 and other survey
numbers in Nerkundram Village No.14, Maduravoil Taluk, Chennai
District.

3. Heard Mr.R.Balachandran, learned counsel for the
petitioner; Mr.P.Balathandayutham, learned State Government
Counsel for respondents 1, 2 and 5 and Mr.N.G.R.Prasad, learned
counsel appearing on behalf of Mr.R.Thirumoorthy, learned
counsel for the private respondents.



4. The petitioner contends that she is the owner of the property comprised in S.No.190/2 Nerkundram Village measuring an extent of 3124 sq.ft. She had also got approval of her building plan on 28.8.2018 from Greater Chennai Corporation. While so, the petitioner would submit that land grabbers have encroached upon the public road namely, Nerkundram Road (Madha Koil Street), which is comprised in S.No.83 abutting the petitioner's property. The said survey number is classified as " Paattai Poramboke" ie., pathway in the revenue records and the encroachers are causing hindrance to the road users. The petitioner gave a representation on 23.11.2020 to the 1st respondent about the illegal encroachments in the Nerkundram Road and again, another representation on 30.11.2020 to the 2nd respondent seeking to issue instructions to the Revenue Divisional Officer and 5th respondent to take necessary action and assist the 3rd and 4th respondents to remove the illegal encroachments on the above said Nerkundram Road. Since no action has been taken, the present writ petition has been filed.

5. It is evident from the certificate issued by the 5th respondent that S.Nos. 83 is " Paattai Poramboke " and S.No.190/1 is " Vaikkal". A status report has been filed by the 4th respondent namely, the Assistant Divisional Engineer (Estate Officer), Highways (Construction & Maintenance), Chennai, based on the survey conducted by the Tahsildar, Taluk Office, Maduravoyal, stating that inspection was done and it was found that there are about 19 encroachers, who have encroached upon S.No.83. The status report also states that the revenue authorities have already issued show cause notices to the encroachers on 29.06.2021 under Section 28(2)(ii) of Tamil Nadu Highways Act, 2001. Paragraph No.9 of the status report reads as follows:

"9. It is submitted on receipt of the list of encroachers from the Revenue Authorities requisite show cause notices dated 29.06.2021 (served on 01.07.2021) as per Tamil Nadu Highways Act 28(2) (ii) with a time of seven days to the encroachers were issued by the 4th respondent. Among 19 Nos. of encroaches 13 Nos. (Sl.No. 1-13) of encroachers have encroached highways land partly and revenue land partly, other 6 Nos (Sl.No. 14-19) have encroached the revenue land (Vaikkal)only. The Revenue Department have issued notices to the encroachers (19 Nos.) of revenue land fixing 15 days time. "

6. Mr.N.G.R.Prasad, learned counsel appearing for the private respondents would submit that the private respondents have got all the documents including sale deed, patta and



property tax receipts to prove that their possession is legal and they cannot be termed as encroachers.

7. It appears that pursuant to the notices given to the encroachers, they have given their reply on 05.07.2021. The 4th and 5th respondents shall conduct joint inspection giving opportunity to all the parties and pass appropriate orders within 12 weeks from the date of receipt of a copy of this order. Till orders are passed based on the inspection conducted and communicated to the parties concerned, the official respondents shall not disturb the possession of the private respondents.

8. It is stated that the petitioner has also encroached upon the pathway and therefore, action has to be taken against her as well. Hence, the official respondents shall find out as to whether the petitioner has encroached upon the pathway or any other public property and issue notice to the petitioner as well if encroachment has been made by her and the same can be dealt with in accordance with law. With the above direction, the writ petition is disposed of. No costs. Connected W.M.P is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

nv

To

1. The Principal Secretary,
The Government of Tamil Nadu,
Highways and Port Department,
Fort St. George,
Chennai - 600 009.
2. The District Collector,
Chennai District,
Chennai - 600 001.
3. The Divisional Engineer,
Highways (Construction & Maintenance),
Thiruvallur,
Thiruvallur District.



4. The Assistant Divisional Engineer
(Estate Officer),
Highways (Construction & Maintenance),
Chennai - 600 053.

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5. The Tahsildar,
Taluk Office,
Maduravoyal,
Chennai - 600 095.

+1cc to the Government Pleader, S.R.No.32925

W.P.NO.3488 OF 2021

LN(CO)
PBS/23/08/2021