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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2021

CORAM :

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

W.P. No. 10299 of 2021

Kareemullah Ghani

...Petitioner

Vs.

1. The District Collector
62, Rajaji Salai, Fourth Floor
Collectorate, Chennai - 600 001.
2. The Secretary to Government
Home, Prohibition and Excise Department
Fort St. George, Chennai - 600 009.
3. The Secretary to Government
Local Administration and Water Supply Department
Fort St. George, Chennai - 600 009.
4. The Chairman
National Highway Authority of India
G5 & 6, Sector 10, Dwarka
New Delhi - 110 075.
5. The Director General
National Highway Authority of India
Tamil Nadu Wing
76, Sardar Patel Road
Guindy, Chennai - 600 025.
6. The Commissioner of Police
Greater Chennai
Vepery, Poonamallee High Road
Chennai - 600 007.
7. Assistant Commissioner of Police
29, Gandhi Main Road
St. Antony Nagar
Puzhal, Chennai - 600 066.



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8. The Inspector of Police (Investigating Officer)
M-3, Puzhal Police Station
29, Gandhi Main Road
St. Antony Nagar
Puzhal, Chennai - 600 066.

9. The Regional Officer
National Highways Authority of India
(Ministry of Road, Transport & Highways)
SRI Tower, 3rd Floor DP-34 (SP)
Industrial Estate, Guindy
Chennai - 600 032.

10. The Project Director
National Highways Authority of India
(Ministry of Road, Transport & Highways)
SRI Tower, 3rd Floor DP-34 (SP)
Industrial Estate, Guindy
Chennai - 600 032.

11. Mr. Elango ...Respondents

PRAYER : Petition filed under Section Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing to consider the Petitioner's representation dated 11.02.2021 and 18.02.2021, consequently direct the Respondent Nos. 9 and 10 to forthwith bring a refrain and to remove the both unauthorized constructions /encroachments made before the New Survey No. 797/1, Old Survey No. 447 Pa., GNT Road, East Kavankarai, No. 207, Chennai, NH 5 - NH 16 of the National Highway at Puzhal.

For Petitioner : Mr. Gokula Rao.N

For Respondents : Mrs. R.Anitha
(For R1 to R3 & R6 to R8)

Mr. G.Karthikeyan (For R9 & R10)

Mr. Su.Srinivasan
(For R4, R5 and R9)

ORDER

(Order of the Court was passed by N.KIRUBAKARAN, J)

The matter was heard through ''Video Conference''.



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2.The Petitioner has come before this Court for a direction directing to consider the Petitioner's representations dated 11.02.2021 and 18.02.2021 and consequential direction to Respondent Nos. 9 and 10 to remove both unauthorized encroachments made before New Survey No. 797/1, Old Survey No. 447 Pa., GNT Road, East Kavankarai, No. 207, Chennai, NH 5 - NH 16 of the National Highways at Puzhal.

3.When the matter came up for hearing on 19.07.2021, this Court directed the National Highways to make an inspection and file a report as to whether the Private Respondent and the Petitioner have encroached upon the property belonging to the National Highways Authority.

4.When this matter is taken up for hearing today, Mr. G.Karthikeyan, Learned Standing Counsel appearing for the National Highways Authority of India has filed a Counter-Affidavit dated 31.07.2021 of Respondent Nos. 9 and 10 before this Court, which is placed on record and Paragraph No.9 of the Counter-Affidavit is extracted hereunder:-

"9. I further submit that, it is to inform that 2 numbers of unauthorized encroachments are existing before the petitioner's building property new Survey No. 797/1 and Old Survey No. 447 part in Puzhal village of Thiruvallur District. The first encroachment is made by the Petitioner himself at Km.15/140 RHS for a length of 5 m and width of 1.25 m which is about 6.25 sqm. with temporary MS sheet and the second encroachment is at Km.15/55 RHS for a length of 5 m and width of 1.25 m which is about 6/25 sqm with temporary MS sheet. A pipe culvert is existing between these two encroachments at Km.15/150. Also, it is to state that the building of the petitioner is constructed over a canal by providing vent below the building for the water flow. Further, NHAI has initiated necessary action to remove the unauthorized encroachments existing in the above two mentioned locations within its boundary."

5.From the above, it is found on inspection that the Petitioner as well as the Private Respondent have encroached upon the property of National Highways. Though the Petitioner has made a submission that only the Tenant has encroached upon the property of National Highways, it is appropriate for the Official Respondents to give notice to both Petitioner as well as Private Respondent to remove the said encroachment.

6.In view of that, this Court directs the Official Respondents to take appropriate action to remove the



encroachment made by the Petitioner as well as the Private Respondent in respect of the property of National Highways, after giving due notice to them, within a period of twelve weeks from the date of receipt of a copy of this order, following due process of law. The Respondent Police is directed to give appropriate police protection at the time of removal of the encroachment.

7. With the above directions, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Maya
To

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+1 CC to The Government Pleader, Sr 38058.

W.P. No. 10299 of 2021

KV(CO)
LS(06/09/2021)