

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2021

CORAM :

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

W.P.No.10674 of 2021
and
W.M.P.No.11296 of 2021

R.Senthil

... Petitioner

Vs

- 1.The Chief Engineer,
Construction and Maintenance Wing,
Highways Department,
Integrated Chief Engineers Office Complex,
HRS Campus, 76, Sardar Patel Road,
Little Mount, Guindy, Chennai-600 025.
- 2.The Chief Engineer (General)
Highways Department,
Chepauk, Chennai-600 005.
- 3.The Divisional Engineer,
Highways Department,
Construction and Maintenance - City Roads,
Anna Salai, Saidapet, Chennai-600 015.
- 4.The Assistant Divisional Engineer,
High ways Department, Construction and Maintenance,
Tambaram Sub-Division,
Velacherry, Chennai-600 042.
- 5.The Tashildhar,
Tambaram Taluk,
Chennai-600 045.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the 4th respondent and subordinates from demolishing the building of the petitioner measuring (83' x 12') and claim the land measuring (45' x 12') in Punja Survey No.250/2A part in Patta No.297 and New Survey No.250/2A1C, New Patta NO.586 presently in No.1/67

Medavakkam Main Road, Nanmangalam Village, Tambaram Taluk, Chengalpettu District abutting highway (St.Thomas Mount-Medavakkam Main Road).

For Petitioner : Mr.Deivanandam

For Respondents : Mr.S.Kamalesh Kannan
Government Advocate

ORDER

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

The petitioner has come before this Court forbearing the 4th respondent from demolishing the petitioner's building measuring (83' x 12') and claim the land measuring (45' x 12') in Punja Survey No.250/2A part in Patta No.297 and New Survey No.250/2A1C, New Patta NO.586 presently in No.1/67 Medavakkam Main Road, Nanmangalam Village, Tambaram Taluk, Chengalpettu District.

2. The petitioner contends that he is the owner of the property comprised in Punja Survey No.250/2A part in Patta No.297 and New Survey No.250/2A1C, New Patta No.586 presently in No.1/67 Medavakkam Main Road, Nanmangalam Village, Tambaram Taluk, Chengalpettu District. The petitioner is enjoying the property by making construction, as per law. However the respondents, without issuing any notice under Section 28(2) of the Highways Act and without any inspection, trying to demolish the property alleged that it is an encroachment.

3. Heard Mr.M.Deivanandam, learned counsel appearing on behalf of the petitioner, Mr.S.Kamalesh Kannan, learned Government Advocate appearing on behalf of the respondents.

4. Mr.S.Kamalesh Kannan, learned Government Advocate would submit that on 29.04.2021, he has received a communication from the 4th respondent stating that the petitioner has encroached upon the highways land and constructed a commercial building on the street allotment. However, he made it clear that without survey, without making inspection and without issuing notice under Section 28(2) of the Highways Act to the petitioner, no demolition would be carried out on the petitioners property. The said statement is recorded.

5. The petitioners have already requested the 5th respondent/Tahsildar to make inspection on 09.03.2021. Therefore, the 4th & 5th respondent shall jointly inspect the property and find out any encroachment is there or not. If any encroachment is there, the same has to be given in detail with

measurement as per the Highways Act and shall be proceed in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order. Till such exercise is being done and the notice issued under Section 28(2) of the Act, the respondents shall not disturb the petitioner's possession of the property and the petitioner shall not create any third party interests and shall not put up any further construction in the property.

6. With the above direction the Writ Petition is disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(L.A)

//True Copy//

Sub Assistant Registrar

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To

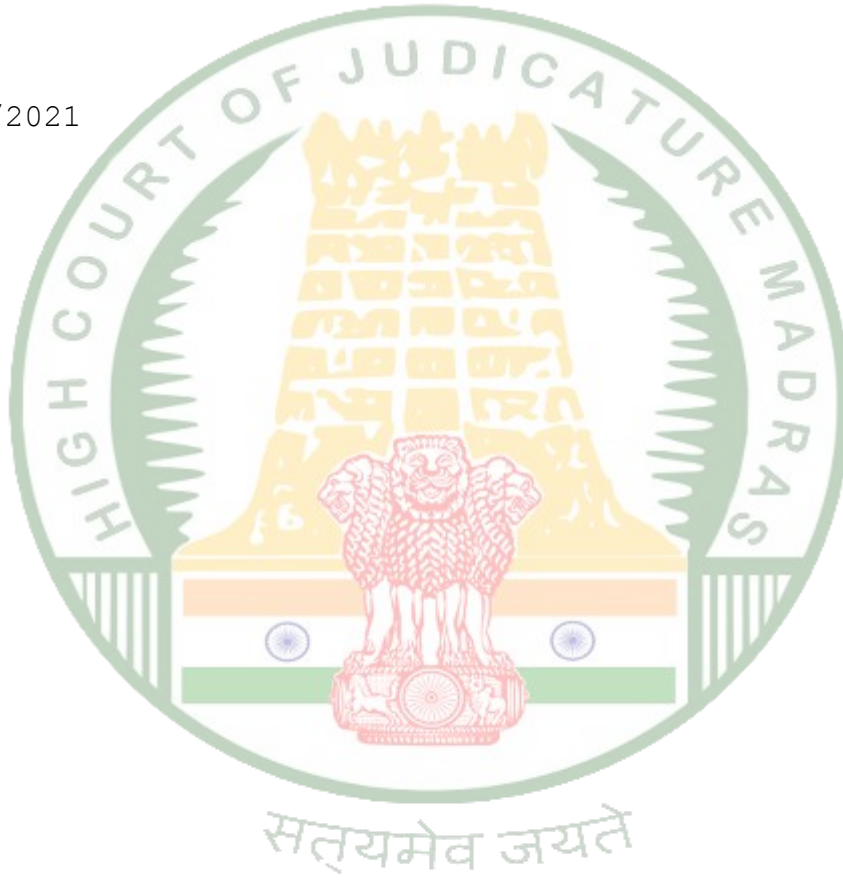
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5.The Tashildhar,
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Chennai-600 045.

+2cc to M/s.M.Deivanandam, Advocate Sr.26575

W.P.No.10674 of 2021
and
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vsn ii[co]
srg 05/07/2021



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