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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2021

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P.No.28187 of 2016

and

W.M.P.Nos. 24322 of 2016 & 31254 of 2017

D.Suresh Babu

... Petitioner

Vs.

1.The District Collector,
Thiruvallur District,
Thiruvallur.

2.The Thasildhar,
Taluk Office,
Alappakkam Main Road,
Alappakkam, Porur,
Chennai - 600 116.

3.The Revenue Inspector,
Vanagaram Panchayat,
Maduravoyal,
Chennai - 600 095.

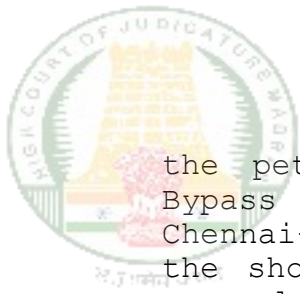
... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the respondents to restore the demolished structure of the petitioner's premises situated at Plot No.2, Maduravoyal Bypass Service Road, Near Toll Plaza, Vanagaram Village, Chennai-600 095 consequently allow the petitioner to run the shops on par with the other commercial establishments who are already running in the same road at Maduravoyal Bypass Service Road, Near Toll Plaza, Vanagaram Village, Chennai.

For Petitioner : Mrs.R.Aparna
For R1 to R3 : Mr.K.M.D.Muhilan
Government Advocate

O R D E R
(Through Video Conferencing)

The relief sought for in the present writ petition is to direct the respondents to restore the demolished structure of



the petitioner's premises situated at Plot No.2, Maduravoyal Bypass Service Road, Near Toll Plaza, Vanagaram Village, Chennai-600 095, and consequently allow the petitioner to run the shops on par with the other commercial establishments who are already running in the same road at Maduravoyal Bypass Service Road, Near Toll Plaza, Vanagaram Village, Chennai.

2.The petitioner states that he purchased a house site in Plot No.2, Maduravoyal Bypass Service Road, Near Toll Plaza, Vanagaram Village, Chennai, and he is in possession and enjoyment of the same. The petitioner constructed a shop and the respondents issued a notice and thereafter, demolished the shop without any valid reason. Thus, the petitioner is constrained to move the present writ petition seeking restoration of the demolished portion of the structure.

3.The learned Government Advocate, appearing on behalf of the respondents, opposed the contentions raised by the petitioner by stating that the petitioner was an encroacher, put up construction in the Highways land, moreover, the land in S.No.198/1 measuring an extent of 0.32.5 Hectares of Vanagaram Village, Maduravoyal Taluk, was acquired for formation of Bypass Road from Perunkalature to Redhills maintained by the National Highways Authority of India. The said land was acquired by the Special Tahsildar (National Highways) from the erstwhile owner by invoking the provisions of the National Highways Act. Compensation was also paid/deposited to the land owner. The land was taken possession and road was also formed. The above said land was registered in the name of "National Highways". In respect of the allegations raised by the petitioner, the 2nd respondent has stated in the counter affidavit as under :

"4.I submit that the Writ Petitioner was already informed about the illegal construction in the Government land which is caused very hindrance for the free flow of traffic in the service road and the investment put forth by the writ petitioner in the Government Land is not binding on the Respondents. The encroachments in the above Government Land was evicted after giving necessary opportunity to the Writ Petitioner. He was informed to stop the illegal construction work on 04.07.2016 itself. I submit that on seeing his construction activities some persons are also constructing some structures in the adjacent field which is also a Government Land. It is decided to evict the all encroachments in the "National Highways" which is causing obstruction in the service road and the encroachments were removed on 02.08.2016 after following necessary rules.

5.I submit that the construction of the



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Writ Petition in the above land in S.No.198/1B of Vanagaram Village which is classified as "National Highways" as per Revenue accounts, it is an illegal one and the construction affects the free flow of traffic in the Service Road, necessary action was taken to evict the encroachments."

4.In view of the fact that the land was acquired for formation of National Highways Road and compensation was already paid in accordance with the Act, encroaching structures were also demolished, road has also been formed, further consideration in respect of the grounds in the present writ petition would not arise at all.

5.At this juncture, the learned counsel for the petitioner made a submission that, in spite of the encroachments in the Highways in the adjacent property, the authorities have not initiated any action.

6.It is made clear that any encroachments in the Highways are to be removed by invoking the provisions of the appropriate Statute. There cannot be any inconsistency in removal of encroachments in Highways, including National Highways. If at all the allegations raised on behalf of the petitioner are correct, the respondents are bound to conduct inspection and accordingly, initiate all appropriate actions for the eviction of encroachers in the Highways, as expeditiously as possible.

Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mkn

To

1.The District Collector,
Thiruvallur District,
Thiruvallur.

2.The Thasildhar,
Taluk Office,
Alappakkam Main Road,
Alappakkam, Porur,
Chennai - 600 116.



3.The Revenue Inspector,
Vanagaram Panchayat,
Maduravoyal,
Chennai - 600 095.

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+1cc to the Government Pleader, S.R.No.55426

W.P.No.28187 of 2016

BR(CO)
CB(10/11/2021)