



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2021

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
AND
THE HON'BLE MRS.JUSTICE S.KANNAMMAL

W.P.NO.16720 OF 2021
AND

W.M.P.NOS.17700 AND 17702 OF 2021

1. G.Ettiyammal
2. B.Muniyammal

... Petitioners

.Vs.

1. The Principal Secretary to Government,
Highways and Minor Ports Department,
St. Fort George, Secretariat,
Chennai - 600 009.
2. The District Collector,
Thiruvallur District,
Thiruvallur.
3. The Project Director,
Tamil Nadu Road, Sector Project,
No.17, Kesava Perumaluram,
Greenways Road, Raja Annamalaipuram.
4. The Tahsildar,
Uthukottai, Thiruvallur District.
5. The Director General,
Highway Department,
Integrated Chief Engineers Office,
No.76, Sardhar Patel Road,
Guindy, Chennai - 600 025.
6. The Chief Engineer,
Construction and Maintenance,
No.76, Sardhar Patel Road,
Guindy, Chennai - 600 025.
7. The Divisional Engineer,
Highways Construction and Maintenance,
Thiruvallur Division, Thiruvallur.



8. The Assistant Engineer (Highways)
Construction and Maintenance,
Gummidipoondi.

9. The President,
Aathuppakkam, Ellapuram Union,
Thiruvallur District - 601 102.

... Respondents

PRAYER:-

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records of the respondents herein, the impugned order vide Eviction notice issued by the 8th respondent in No.12/2020/AE/Encroachment/dated 21.06.2021 and Eviction Notice No.12-1/2020/AE/Encroachment/dated 21.06.2021 and quash the same and consequently direct 4th and 8th respondents to conduct inquiry and investigate the entire encroachment from Uthukottai to Periyapalayam Road.

For Petitioners : Mr.K.K.Ramesh

For Respondents : Ms.R.Anitha,
Government Counsel
For R1 to R8

Mr.V.P.R.Ilamparithi
For R9

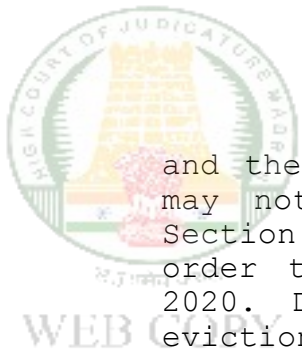
ORDER

(Made by M.M.SUNDRESH, J.)

The petitioners herein being the encroachers challenged the notice dated 21.06.2021 by which the eighth respondent has asked the petitioners to remove the encroachment failing which it would be done by force. Despite the earlier notices issued dated 10.09.2020 and 23.09.2020 followed by the acceptance to remove, the petitioners did not do so. Challenging the said order, the present writ petition has been filed.

2. Learned counsel appearing for the petitioners submitted that there are other encroachments, which has been untouched. Therefore, a thorough enquiry is required in this aspect.

3. Learned Government Counsel appearing for the respondents submitted that the issue is pending from 2020 onwards. The petitioners filed a suit in O.S.No.16 of 2020 on the file of District Munsif, Uthukottai against the Tahsildar, Uthukottai



and the 8th respondent. Taking note of the aforesaid suit which may not be maintainable in view of the specific bar under Section 63 of the Highways Act, this Court has already passed an order to complete the process of eviction in W.P.No.19781 of 2020. Despite the same, the petitioners are still resisting eviction especially when the impugned order states that the forcible eviction will be made on 25.06.2021 and now more than one month has elapsed since.

4. We do not find any merit in this petition. Article 14 of The Constitution of India is positive in nature. We do not know as to whether similar persons have encroached and such encroachments have not been removed. The petitioners have not disclosed in the affidavit about the pendency of the suit in O.S.No.16 of 2020 on the file of the District Munsif, Uthukottai seeking a decree for permanent injunction against the Tahsildar including the 8th respondent before us. The impugned order clearly refers to the earlier notices issued on 10.09.2020 and 23.09.2020. These two notices have not been put to challenge.

5. Therefore, looking from any perspective, we find no reason to interfere with the order impugned and, accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

mmi/ssm

To

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Chennai - 600 009.
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4. The Tahsildar,
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Thiruvallur District - 601 102.

+1cc to Mr.K.K.Ramesh, Advocate, S.R.No.40945

W.P.NO.16720 OF 2021

KSM(CO)
PBS/07/09/2021