



W.P.No.23238 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

W.P.No.23238 of 2021
and
W.M.P.No.24535 of 2021

D.Viswanathan

...Petitioner

Vs.

The Assistant Engineer,
National Highways,
Neyveil.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the respondent in letter No.01/2021/U.Po/dt 20.10.2021 and quash the same and direct the respondent to comply with the direction issued in W.P.Nos.8180 & 21436 of 2019 dated 14.02.2020.

For petitioner : Mr.S.Shankar
For respondent : Mr.L.S.M.Hasan Fizal
Additional Government Pleader



W.P.No.23238 of 2021

ORDER

WEB COPY (The Order of the Court was made by **K.KALYANASUNDARAM,J**)

Heard Mr.S.Shankar, learned counsel for the petitioner and Mr.L.S.M.Hasan Fizal, learned Additional Government Pleader appearing for the respondent.

2.The petitioner challenges the notice issued by the respondent dated 20.10.2021, wherein he was directed to remove the encroachment made in S.No.217 of Romapuri Village, which belongs to National Highways Department.

3.One A.K.Mumtaj Begum had filed a writ petition in W.P.No.8180 of 2019 against District Collector, Assistant Engineer and the petitioner herein for the direction to evict the petitioner from the encroachment made on the general path and to ensure her to utilize the same to cultivate her land. The petitioner filed W.P.No.21436 of 2019 challenging the notice dated 12.07.2021 issued by the District Collector and for a direction to



W.P.No.23238 of 2021

conduct survey in the land in S.No.217 at Romapuri village, Cuddalore District and other lands which are encroached by the said Mumtaj Begum and others.

4.It is to be noted that both the writ petitions came to be disposed of with the following observations:-

“6.Considering the submissions made by both sides, we are of the opinion that the issue involved in both the writ petitions is nothing, but a disputed question of facts. As the same cannot be agitated before this Court, we are constrained to direct the Assistant Engineer, National Highways, Vridhachalam, Cuddalore District to conduct an enquiry and survey the said lands in the presence of the parties, by issuing notice to both the petitioners as well as the fourth respondent in W.P.No.8180 of 2019. After enquiry, if he comes to the conclusion that there was an encroachment made in the above lands, he is further directed to remove the encroachment in accordance with law, within a period of 12 weeks from the date of receipt of a copy of this order.”



W.P.No.23238 of 2021

5.It is the grievance of the petitioner that the respondent without conducting survey and any enquiry as per the earlier order, has issued the notice directing the petitioner to remove the encroachments.

6.The learned Additional Government Pleader Mr.L.S.M.Hasan Fizal, on instructions, from the respondent, who is present before this Court, would state that the Tahsildar, Vridhachalam has to conduct survey to find out the encroachments and based on the survey report, the respondent may be directed to remove the encroachments. He would further submit that not only the petitioner, about 36 persons have encroached in the said survey number.

7.In the light of the above, we hereby direct the Tahsildhar, Vridhachalam to cause a survey in the presence of the parties in S.No.217 of Romapuri Village and remove all the encroachments in the said survey number in accordance with law. The said exercise shall be completed within a period of six months from the date of receipt of a copy of this order.



W.P.No.23238 of 2021

WEB COPY 8. With the above direction, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[M.K.K.S.J] [V.S.G.J]
22.11.2021

skn

Index : Yes/No

Internet : Yes/No

To

1. The Assistant Engineer,
National Highways,
Neyveil.

2. The Tahsildhar,
Vridhachalam.



WEB COPY



W.P.No.23238 of 2021

K.KALYANASUNDARAM, J
and
V.SIVAGNANAM, J

skn

W.P.No.23238 of 2021
and
W.M.P.No.24535 of 2021

22.11.2021