



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MRS. JUSTICE S.ANANTHI

**W.P. (MD)Nos.1478 to 1488 of 2021
and W.M.P. (MD) Nos.1266 to 1287 of 2021
(Through Video Conferencing)**

Aron Asir	... Petitioner in WP(MD)No.1478 of 2021
Yosuf Ali	... Petitioner in WP(MD). 1479 of 2021
Selvaraj	... Petitioner in WP(MD). 1480 of 2021
Pappa	... Petitioner in WP(MD). 1481 of 2021
Nithya Kalyani	... Petitioner in WP(MD). 1482 of 2021
Jeyalakshmi	... Petitioner in WP(MD). 1483 of 2021
E.Haroon Natharsha	... Petitioner in WP(MD). 1484 of 2021
Ramalingam	... Petitioner in WP(MD). 1485 of 2021
Chinna Kannu	... Petitioner in WP(MD). 1486 of 2021
Eswaran	... Petitioner in WP(MD). 1487 of 2021
Manthiram	... Petitioner in WP(MD). 1488 of 2021

Vs.

- 1.The District Collector
O/o. the District Collector
Tirunelveli District.
- 2.The Divisional Engineer,
O/o. the Divisional Engineer
Tamil Nadu Highways Department
(Construction and Maintenance), Tirunelveli.
- 3.The Assistant Divisional Engineer
O/o. the Assistant Divisional Engineer
Tamil Nadu Highways Department
(Construction and Maintenance)
Palayamkottai, Tirunelveli.
- 4.The Assistant Engineer
Tamil Nadu Electricity Board,
Tirunelveli
- 5.The Tahsildar,
O/o. the Tahsildar,
Tirunelveli Taluk Office,
Tirunelveli



6.The District Surveyor
O/o. the District Surveyor
Tirunelveli District

: Respondents
in all Writ Petitions

PRAYER in WP(MD)No.1478/2021:

Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Certiorarified Mandamus to call for the records of the impugned order passed by the respondent No.3 in Say.Mu.Ka.No.154/2021/A1 dated 25.01.2021 in respect of the property of two shops in Town Survey No.592, T.S.Ward No.11 Block No.7 in Door Nos.97/A & 97/3 Thaikka Street, Kailasapuram Tirunelveli and quash the same as illegal and consequently direct the respondent NO.1 grant patta to the petitioner.

Prayer in WP(MD). 1479/ 2021 :

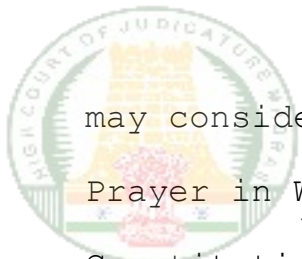
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, call for the records of impugned order passed by the respondent No.3 in Say.Mu.Ka.No.154/2021/A1 dt 25.01.2021 in respect of the property of shop in town survey No.592, T.S.Ward No.11, Block No.7 in Door No.292, Thaikka Street, Kailasapuram, Tirunelveli and quash the same as illegal and consequently direct the respondent No.1 to grant patta to the petitioner and pass any other order or orders as this Hon`ble Court may consider fit and proper in the circumstances of the matter.

Prayer in WP(MD). 1480/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, call for the records of impugned order passed by the respondent No.3 in Say.Mu.Ka.No.154/2021/A1 dt 25.01.2021 in respect of the property of two shops in town survey No.592, T.S.Ward No.11, Block No.7 in Door Nos.97/1 and 36B, Thaikka Street, Kailasapuram, Tirunelveli and quash the same as illegal and consequently direct the respondent No.1 grant patta to the petitioner and pass any other order or orders as this Hon`ble Court may consider fit and proper in the circumstances of the matter.

Prayer in WP(MD). 1481/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, call for the records of impugned order passed by the respondent No.3 in Say.Mu.Ka.No.154/2021/A1 dt 25.01.2021 in respect of the property of house in town survey No.592, T.S.Ward No.11, Block No.7 in Door No.62/C, Thaikka Street, Kailasapuram, Tirunelveli and quash the same as illegal and consequently direct the respondent No.1 grant patta to the petitioner and pass any other order or orders as this Hon`ble Court



may consider fit and proper in the circumstances of the matter.

Prayer in WP(MD). 1482/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, call for the records of impugned order passed by the respondent No.3 in Say.Mu.Ka.No.154/2021/A1 dt 25.01.2021 in respect of the property of house in town survey No.592, T.S.Ward No.11, Block No.7 in Door No.61/C, Thaikka Street, Kailasapuram, Tirunelveli and quash the same as illegal and consequently direct the respondent No.1 grant patta to the petitioner and pass any other order or orders as this Hon`ble Court may consider fit and proper in the circumstances of the matter.

Prayer in WP(MD). 1483/ 2021 :

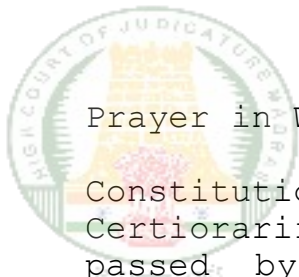
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, call for the records of impugned order passed by the respondent No.3 in Say.Mu.Ka.No.154/2021/A1 dt 25.01.2021 in respect of the property of house in town survey No.592, T.S.Ward No.11, Block No.7 in Door Nos.97/1A, Thaikka Street, Kailasapuram, Tirunelveli and quash the same as illegal and consequently direct the respondent No.1 grant patta to the petitioner and pass any other order or orders as this Hon`ble Court may consider fit and proper in the circumstances of the matter.

Prayer in WP(MD). 1484/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, call for the records of impugned order passed by the respondent No.3 in Say.Mu.Ka.No.154/2021/A1 dt 25.01.2021 in respect of the property of house in town survey No.592, T.S.Ward No.11, Block No.7 in Door Nos.97/7A, Thaikka Street, Kailasapuram, Tirunelveli and quash the same as illegal and consequently direct the respondent No.1 grant patta to the petitioner and pass any other order or orders as this Hon`ble Court may consider fit and proper in the circumstances of the matter.

Prayer in WP(MD). 1485/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, call for the records of impugned order passed by the respondent No.3 in Say.Mu.Ka.No.154/2021/A1 dt 25.01.2021 in respect of the property of house and shops in town survey No.592, T.S.Ward No.11, Block No.7 in Door Nos.52C, 61/C and 97/2, Thaikka Street, Kailasapuram, Tirunelveli and quash the same as illegal and consequently direct the respondent No.1 grant patta to the petitioner and pass any other order or orders as this Hon`ble Court may consider fit and proper in the circumstances of the matter.



Prayer in WP(MD). 1486/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, call for the records of impugned order passed by the respondent No.3 in Say.Mu.Ka.No.154/2021/A1 dt 25.01.2021 in respect of the property of house with shop in town survey No.592, T.S.Ward No.11, Block No.7 in Door No.52/C, Thaikka Street, Kailasapuram, Tirunelveli and quash the same as illegal and consequently direct the respondent No.1 grant patta to the petitioner and pass any other order or orders as this Honble Court may consider fit and proper in the circumstances of the matter.

Prayer in WP(MD). 1487/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, call for the records of impugned order passed by the respondent No.3 in Say.Mu.Ka.No.154/2021/A1 dt 25.01.2021 in respect of the property of shop in town survey No.592, T.S.Ward No.11, Block No.7 in Door No.97A/1, Thaikka Street, Kailasapuram, Tirunelveli and quash the same as illegal and consequently direct the respondent No.1 grant patta to the petitioner and pass any other order or orders as this Honble Court may consider fit and proper in the circumstances of the matter.

Prayer in WP(MD). 1488/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, call for the records of impugned order passed by the respondent No.3 in Say.Mu.Ka.No.154/2021/A1 dt 25.01.2021 in respect of the property of shop in town survey No.592, T.S.Ward No.11, Block No.7 in Door No.97/6, Thaikka Street, Kailasapuram, Tirunelveli and quash the same as illegal and consequently direct the respondent No.1 grant patta to the petitioner and pass any other order or orders as this Honble Court may consider fit and proper in the circumstances of the matter.

(In all Cases)

For Petitioner : Mr.S.M.A.Jinnah

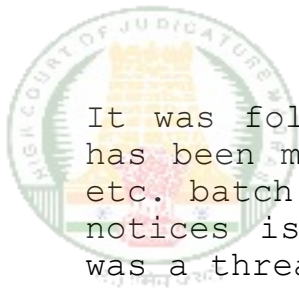
For Respondents : Mr.K.P.Krishnadoss
Special Government Pleader

COMMON ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

As all the writ petitions are pertaining to similar action taken by the respondent No.3 asking the writ petitioners to remove the encroachments made by them by today (27.01.2021), these cases are disposed of by this common order.

2.The petitioners are stated to be the encroachers. On an earlier occasion, they have been issued with the show cause notices.



It was followed by the representations made by them. A challenge has been made by filing writ petitions in W.P.(MD) Nos.740 of 2021 etc. batch before this Court inter-alia alleging that the show cause notices issued were treated as final notices and therefore, there was a threat of dispossession.

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3.Considering the submissions made, we directed the respondent No.3 to treat the notices issued as show cause notices as indicated therein and consider the representations made. Upon considering the representations of the petitioners, a final order was passed directing the petitioners to remove the encroachments on or before 27.01.2021. Under those circumstances by way of urgent mentioning, these writ petitions have been filed.

5. Mr.S.M.A.Jinnah, learned counsel appearing for the petitioners, submitted that the respondent No.3 is proceeding against the lands, over which, he does not have any control. Though they are poramboke lands, the Highways does not have control over the same. They have been classified as Thoppu Poramboke. In such view of the matter, the impugned notices will have to be interfered with.

6.The learned Special Government Pleader appearing for the respondent No.3 submitted that a prior inspection was made over the entire extent of lands encroached by the petitioners before issuing the show cause notices. Report from the Tahsildar and the other revenue officials have been obtained. The Sub Collector conducted an enquiry by calling all the petitioners and gave time. The submission that these lands do not belong to the respondent No.3 is not correct. Measurements have been made and based upon the report of the Tahsildar, Tirunelveli, dated 07.01.2021, the impugned orders have been passed.

7. We do not find any merit in these writ petitions. Due measurements have been made apart from obtaining the report from the revenue officials, as referred in Ref.No.3 in the impugned orders. There is no malice in law against the petitioners. There is no substantive evidence to show that the respondent No.3 does not have jurisdiction over the land to the effect that though the petitioners are encroachers, the lands come under the purview of the respondent No.3. In fact only based upon the report of the respondent No.3, action was taken on the orders passed by the Divisional Engineer, Tirunelveli dated 09.01.2021. The aforesaid decision was taken by the respondent No.2, after taking note of the report of the respondent No.5.

8. We are also of the view that there is a overwhelming public interest in the action taken by the respondent No.3. A bridge could not be reopened and allowed to function, though completed already, in view of the encroachments made. Thus, the petitioners, who are



especially, when the bridge has been constructed by taking note of the congestion in the traffic.

9. Thus looking from any perspective, we do not find any merit in these writ petitions. However, taking note of the submissions made by the learned counsel for the petitioners that the petitioners are in possession and enjoyment for over the years by running their shops, apart from few of them residing in the said place, we are inclined to grant a further period of one month from the date of receipt of a copy of this order enabling them to remove the encroachments made, failing which, the respondent No.3 is at liberty to remove. We make it clear that till such time as given by us, status quo as on today shall be maintained.

10. Accordingly, finding no merit, these writ petitions stand dismissed. No costs. Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrars (CO and RTI)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

RR

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The District Collector
O/o. the District Collector
Tirunelveli District.
2. The Divisional Engineer,
O/o. the Divisional Engineer
Tamil Nadu Highways Department
(Construction and Maintenance), Tirunelveli.
3. The Assistant Divisional Engineer
O/o. the Assistant Divisional Engineer
Tamil Nadu Highways Department
(Construction and Maintenance)
Palayamkottai, Tirunelveli.



4.The Assistant Engineer
Tamil Nadu Electricity Board,
Tirunelveli
5.The Tahsildar,
O/o. the Tahsildar,
Tirunelveli Taluk Office,
Tirunelveli

6.The District Surveyor
O/o. the District Surveyor
Tirunelveli District

Order made in
W.P. (MD)Nos.1478 to 1488 of 2021
and W.M.P. (MD) Nos.1266 to 1287 of 2021

Dated: 27.01.2021

KM(CO)
KK(27.01.2021) 7P 7C