



BEFORE THE MADURAI BENCH OF MADRAS HIGH Court

DATED: 18.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD)No.10280 of 2021
and WMP(MD) No.7968 of 2021
(Through Video Conferencing)

N.A.K.Gopalakrishna Raja

... Petitioner

Vs.

1.The District Collector
Theni District,
Collectorate, Theni.

2.The Commissioner,
Theni Allinagaram Municipality
Theni Post & District.

3.The Assistant Divisional Engineer,
National Highways,
No.4 Kasthuribai Street, NRT Nagar,
Theni Post & District.

... Respondents

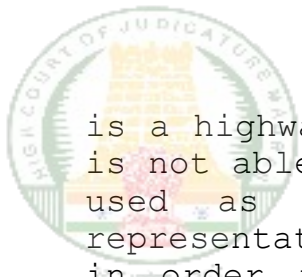
PRAYER : Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus to direct the respondents to consider the petitioner's representation dated 19.04.2021 within a time frame to be fixed by this Court and consequently direct the respondents herein to exhume the buried dead body in front of Survey Ward No.F Block-7 Town Survey No.23/2 and bury it in the burial ground.

For Petitioner : Mr.M.Saravanakumar
For Respondent : Mr.S.Shanmugavel
Government Advocate (civil)

ORDER

This writ petition has been filed for the issue of a writ of mandamus directing the respondents to consider the representation made by the petitioner on 19.04.2021, wherein, the petitioner has requested for preventing the subject property, which is in the poramboke land from being used as a burial ground, since the said land is the approach road to the property of the petitioner.

2. The case of the petitioner is that the front portion of the patta land of the petitioner belongs to the National Highways and it



is a highway poramboke. The grievance of the petitioner is that he is not able to develop the property, since this highway poramboke is used as a burial ground. Therefore, the petitioner made representation to the respondents on 19.04.2021 to clear this place in order to enable the petitioner to carry out the development activities in his patta land. Since the same was not considered, the petitioner has filed this writ petition for appropriate directions.

3. The learned Government counsel appearing on behalf of the respondents produced the written instructions received from the third respondent. A careful reading of the written instructions shows that the burial had taken place in the property in question 20 years back. That apart, it has also been stated that a survey is going to be conducted and if it is found that the burial had taken place in the land belonging to the third respondent, the encroachment will be immediately removed. Since there is a lock-down, the third respondent is not in a position to proceed further to survey the property and therefore, some time has been sought for to carry out the survey.

4. Taking into consideration the facts and circumstances of the case and the written instructions given by the third respondent, there shall be a direction to the third respondent to conduct the survey and if it is found that the burial had taken place in the land belonging to the third respondent, the encroachment shall be removed immediately. This process shall be completed by the third respondent within a period of eight weeks from the date of receipt of a copy of this order.

5. This writ petition is disposed of with the above direction. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-III)

// 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
Theni District,
Collectorate, Theni.

2.The Commissioner,
Theni Allinagaram Municipality
Theni Post & District.

3.The Assistant Divisional Engineer,
National Highways,
No.4 Kasthuribai Street, NRT Nagar,
Theni Post & District.

+1 CC to M/s.M.SARAVANAKUMAR, Advocate (SR-19694[F] dated
21/06/2021)

+1 CC to M/s.SPL GP (SR-19773[F] dated 21/06/2021)

W.P. (MD) No.10280 of 2021
18.06.2021

—
km(CO)
TR(28.06.2021) 3P 6C