



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.12.2021

CORAM :

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

and

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P (MD)No.21720 of 2021

and

WMP (MD)No.18299 of 2021

S.Rajamanickam

... Petitioner

vs.

- 1) The District Collector,
Office of the District Collector,
Collectorate,
Virudhunagar District.
- 2) The Superintending Engineer,
Highways Department,
(Construction and Maintenance),
Palayamkottai,
Tirunelveli District.
- 3) The Divisional Engineer,
Highways Department,
(Construction and Maintenance),
Collectorate Office,
Virudhunagar District.
- 4) The Assistant Divisional Engineer,
Highways Department,
(Construction and Maintenance),
Madurai Road,
Virudhunagar
Virudhunagar District.
- 5) The Tahsildar,
Virudhunagar Taluk,
Virudhunagar District.

... Respondents

Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned eviction notice in Ka.No.01/2021/A1 in his proceedings issued by the 4th respondent dated 24.11.2021 in so far as the same relates to front portion of verandha and bathroom of the petitioner's house in Door No.2/285, situated at Watrap - Maharajapuram - Alagaupuri - Virudhunagar Road, Sengundrapuram Village, Virudhunagar Taluk, Virudhunagar District, comprising in the Survey No.754/1 consisting of 0.00.80 square meter and quash the



same and consequently direct the respondents not to proceed with the acquisition of the petitioner's building under section 28-2(II) of the Tamil Nadu Highways Act Rules, 2001.

For Petitioner : Mr.L.Prabhu

For Respondents : Mr.M.Siddharthan
Additional Government Pleader

ORDER

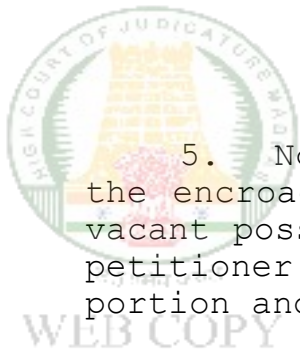
(Order of the Court was made by **PUSHPA SATHYANARAYANA, J.**)

The writ petition is filed for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned eviction notice in Ka.No.01/2021/A1, in his proceedings issued by the 4th respondent, dated 24.11.2021, in so far as the same relates to front portion of verandha and bathroom of the petitioner's house in Door No.2/285, situated at Watrap - Maharajapuram - Alagaupuri - Virudhunagar Road, Sengundrapuram Village, Virudhunagar Taluk, Virudhunagar District, comprising in the Survey No.754/1, consisting of 0.00.80 square meter and quash the same and consequently direct the respondents not to proceed with the acquisition of the petitioner's building, under section 28-2(II) of the Tamil Nadu Highways Act Rules, 2001.

2. After hearing both sides for sometime, it was pointed out that though the petitioner has purchased the property on 20.06.2005, the same is in Survey No.754/8, whereas, the impugned notice, calling upon him to vacate the premises is with respect to Survey No.754/1, to an extent of 0.00.80 square meter in Watrap - Maharajapuram - Alagaupuri - Virudhunagar Road, Sengundrapuram Village.

3. The learned counsel for the petitioner himself submitted that verandha and bathroom that has been constructed, is not within the petitioner's ownership land, but it is an encroachment on to the Highways' land. As it is an encroachment, the impugned notice has been issued to him, to remove the encroachment and hand over the possession within 7 days.

4. Though the learned counsel argued that before issuing the said notice, a survey should have been conducted and the property should have been measured, it is admitted by him that the petitioner has encroached upon the Highways' land and put up the above referred construction. Thus, there is no necessity for such kind of survey. It is open to the petitioner to measure the property for himself and remove the encroached portion upon the Survey No.754/1, as indicated in the impugned notice.



5. Now the learned counsel for the petitioner agreed to vacate the encroached portion within a period of four weeks and hand over vacant possession to the respondents. The same is recorded and the petitioner is granted four weeks time to vacate the encroached portion and hand over the vacant possession to the respondents.

6. In the above terms, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

7. Post the matter on 12.01.2022, for reporting compliance.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

- 1) The District Collector,
Office of the District Collector,
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Virudhunagar Taluk, Virudhunagar District.

W.P(MD)No.21720 of 2021

DATED : 08.12.2021

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