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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 03.02.2022

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

W.P.NO.1964 OF 2022
AND
W.M.P.NO.2126 OF 2022

K.Gunasekaran

... Petitioner

-vs-

1.The District Collector
Office of the District Collector
Salem District - 636 001.

2.The District Revenue Officer
Office of the District Collector
Salem District - 636 001.

3.The Revenue Divisional Officer
Office of the Revenue Division
Office of the District Collector Campus
Salem District - 636 001.

4.The Tahsildar
Vazhapady Town and Taluk
Salem District.

5.The District Divisional Engineer
Highways Department
Opp. National Hotel
Salem District - 636 004.

6.The Assistant Divisional Engineer
Highways Department
Vazhapady Travellers Bungalow
Vazhapady Town and Taluk
Salem District.

7.The Town Surveyor
Vellalagundam Village
Vazhapady Taluk
Salem District - 636 111.



8.The Village Administrative Officer
Vellalagundam Village
Vazhapady Taluk
Salem District - 636 111.

9.The Assistant Engineer
(Construction and Maintenance)
Highways Vazhapady Taluk
Salem District - 636 111.

10.The Branch Manager
Indian Overseas Bank
Vellalagundam Village
Vazhapady Taluk
Salem District - 636 111.

11.The Executive Engineer
Tamil Nadu Electricity Department
Vellalagundam Post
Vazhapady Taluk
Salem District - 636 111.

12.The Block Development Officer
Ayodhyapattinam
Vazhapady Taluk
Salem District.

... Respondents

PRAYER:

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, forbearing the respondents from dispossessing the petitioner's property situated at 3/40, Veppilaipatty Main Road, Vellalagundam Post, Vazhapady Taluk, Salem District comprised in Gramanatham S.Nos.111 and 364 of Vallalagundam Village without due process of law.

For petitioner : Dr.D.Simon
For respondents: Mr.M.Alagu Gowtham
Government Advocate for R1 to R9
Mr.V.Jeeva Giridharan
Additional Government Pleader
for R12

ORDER

(Order of the Court was made by K.KALYANASUNDARAM, J.,)

Mr.M.Alagu Gowtham, learned Government Advocate takes notice for the respondents 1 to 9. Mr.V.Jeeva Giridharan, learned



Additional Government Pleader takes notice for the 12th respondent.

2.By consent of the parties, this writ petition has been taken up for final disposal at the admission stage itself.

3.This writ petition has been filed for issuance of writ of mandamus, forbearing the respondents from dispossessing the petitioner from the property situated at 3/40, Veppilaipatty Main Road, Vellalagundam Post, Vazhapady Taluk, Salem District comprised in Gramanatham S.Nos.111 and 364 of Vallalagundam Village without due process of law.

4.Mr.D.Simon, learned counsel appearing for the petitioner would submit that the petitioner's fore-fathers had constructed a house in question and it has been in their enjoyment for the past about 90 years. While so, without any notice and without conducting any enquiry, the respondents are attempting to dispossess the petitioner from the subject property. It is also stated that the proceedings were initiated pursuant to the order passed in W.P.No.10205 of 2016 dated 06.10.2021.

5.The learned Government Advocate appearing for the respondents 1 to 9 would state that the said land belongs to the State Highways Department and despite the notice issued under Section 26 of the Highways Act, no objection came from the petitioner as well as the other encroachers and hence a final order was passed for removal of encroachment.

6.In reply, the learned counsel for the petitioner would state that in response to the show cause notice issued by the 6th respondent, the petitioner had already submitted a reply, which is enclosed at page No.58 of the typed set filed before this Court, but no enquiry was conducted thereafter.

7.It appears that the petitioner has not submitted a detailed reply to the notice issued by the 6th respondent and the final order passed during the pendency of the writ petition would have serious impact on the rights of the petitioner in the subject property. Hence, we are granting two weeks time to the petitioner to give a fresh reply to the notice issued by the 6th respondent. It is open to the petitioner to raise objections before the 6th respondent, within the stipulated time. The 6th respondent shall pass orders under Section 28 of the Tamil Nadu Highways Act, after providing personal hearing to the petitioner and all necessary parties, on merits and in accordance with law. Till such time, no coercive steps shall be taken by the respondents.



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8. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

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+1cc to Dr.D.Simon, Advocate, S.R.No.6913

W.P.No.1964 of 2022 and
W.M.P.No.2126 of 2022

AJB (CO)
PM/08/02/2022