

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.20162 OF 2009

AND

W.M.P.NO.1052 OF 2019

P.Santhanagopalakrishnan

... Petitioner

..Vs..

The Highways Department,
Represented by the Divisional Engineer,
170, Jawaharlal Nehru Street,
Tiruvallure 602 001.

... Respondent

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondent to restore the petitioner's property in the condition that existed at the time of encroachment by the respondent in 2006 or pay the petitioner in the alternative a sum of Rs.1,60,000/- as damages for the loss caused on account of encroachment and destruction of property and further forbear the respondent from letting sewage water into petitioner's land comprised in Survey Nos.473/1A, 473/1B and 473/1C, (New Town Survey Nos.64/1, 64/2 and 64/3), Paruthipattu Village, Poonamallee Taluk, Tiruvallure District.

For Petitioner	:	M/s.A.Muthu Kumar
For Respondent	:	Mr.Silambannan
		Additional Advocate General
		Assisted by Mr.Yogesh Kannadasan
		Special Government Pleader
		Ms.Kothai Muthu Meenal
		Advocate Commissioner

ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Mandamus to direct the respondent to restore the petitioner's property in the condition that existed at the time

of encroachment by the respondent in 2006, or pay the petitioner in the alternative a sum of Rs.1,60,000/- as damages for the loss caused on account of encroachment and destruction of properties and further forbear the respondent from letting sewage water into petitioner's land comprised in Survey Nos.473/1A, 473/1B and 473/1C, (New Town Survey Nos.64/1, 64/2 and 64/3), Paruthipattu Village, Poonamallee Taluk, Tiruvallure District.

2. The case of the petitioner is that the petitioner had purchased lands comprised in Survey Nos.473/1A, 473/1B and 473/1C, (New Town Survey Nos.64/1, 64/2 and 64/3), measuring an extent of 42, 42 and 34 cents respectively, totalling to 1.18 acres situated in No.3, Paruthipattu Village, Poonamallee Taluk, Thiruvallure District, which was registered through sale deed, dated 29.02.1988. Subsequent to the purchase of the aforesaid properties, the Patta has been issued in favour of the petitioner, vide Patta bearing No.136, and the petitioner is in possession and enjoyment of the said properties. However, without intimation or following legal procedures, the petitioner's lands, ad-measuring an extent of 925 sq.ft., had been encroached by the Highways Department for the purpose of laying drainage channel and the fencing was also removed and the concrete pillars are put up around his lands. The grievance of the petitioner is that the respondent/Highways Department had put up a "culvert" protruding into his land, thereby acting as a conduit for carrying the drainage water into his land. Therefore, the petitioner made a representation dated 28.09.2006 before the Highways Department, seeking to restore his properties in the condition that prevailed at the time of encroachment by the respondent in the year 2006 or in the alternative, to pay compensation to the petitioner for the damages caused on account of the encroachment. Since the same has not yet been considered, the petitioner has filed the present Writ Petition seeking for the aforesaid relief.

3. On earlier occasion, this Court, by order dated 21.01.2019, has issued direction appointing an Advocate Commissioner to inspect the properties in question as per the Revenue Records and the title deed, note down the boundaries and the Advocate Commissioner was directed to file a report as to whether there is any "culvert" or "channel" put up by the respondent for the purpose of diverting the drainage water into the lands.

4. This matter was adjourned from time to time and lastly, the matter is listed today. Today, when the matter is taken up for hearing, the respondent/Highways Department filed a status report dated Nil of June 2022 and admitted that they have

encroached 20 sq.ft of petitioner's property and the same will be removed in a couple of days.

5. The learned counsel for the petitioner submitted that the respondent claims that they encroached 20 sq.ft. of lands, however, the actual extent of land is 925 sq.ft.

6. In view of the above facts and circumstances of the case, this Court directs the respondent to measure the petitioner's property with the help of a Town Surveyor in the presence of the petitioner and the petitioner is directed to produce all the original documents and Revenue Records. After measurement of the said properties, the respondent is directed to complete the entire task of removal of encroachment, if any within a period of four weeks.

7. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

jd

To

The Divisional Engineer,
The Highways Department,
170, Jawaharlal Nehru Street,
Tiruvallure 602 001.

+1cc to M/s.A.Muthu Kumar, Advocate, S.R.No.35415

+1cc to the Government Pleader, S.R.No.36593

W.P.No.20162 of 2009
and
W.M.P.No.1052 of 2019

GSM(CO)
RLP(12/07/2022)