



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2022

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.8952 of 2013

and

M.P.No.1 of 2013

K. Palaniswamy

... Petitioner

Vs.

1. The Divisional Officer,
State Highways,
Gobichettipalayam Division.
2. The Revenue Divisional Officer,
Gobichettipalayam.
3. The Secretary to Government,
Government of Tamil Nadu,
Tamilnadu Highways Department.
Secretariat, Chennai.

...Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus or any other appropriate writ, order or direction under Article 226 of the Constitution of India forbearing the 1st Respondent from proceeding with the widening of the bridge work in petitioner's patta land in S.F.1/1 to 1/3 Alukulli Village except under the due process of law.

For Petitioner : Mr.S.Raveekumar

For Respondents : R.P.Murugan Raja
Government Pleader

ORDER

The present petition has been filed seeking to forbear the 1st Respondent from proceeding with the widening of the bridge work in petitioner's patta land in S.F.1/1 to 1/3 Alukulli Village, without any due process of law.

2. It is the case of the petitioner that he is the absolute owner of the subject property and he is in possession and enjoyment of the same. The 1st Respondent/Divisional



Engineer had started widening the bridge and road in the petitioner's patta land without issuing any notice to the petitioner and without following due process of law. Therefore, the petitioner made a representation to the 1st Respondent/Divisional Engineer requesting to stop the work. However, the 1st Respondent has not taken any steps on the petitioner's representation. Hence, the petitioner has come up with the present petition.

3. Learned counsel for the petitioner submits that the act of the 1st Respondent in trespassing into the petitioner's property and widening the bridge and road without following the procedure contemplated under the Tamilnadu Highways Act, 2001 is not sustainable. Hence, this Court may issue a direction to the 1st Respondent not to interfere with the petitioner's land without following the due process of law.

4. Learned Government Advocate appearing for the respondents reiterating the Counter Affidavit stated that as per the revenue records of the year 1953, the subject property is Government property, and the petitioner cannot claim right over the property merely based on his possession of the property and the unregistered partition deed executed among the legal heirs of his father.

5. Having perused the materials available on record, the petitioner claims that he is the absolute owner of the property had placed the revenue records pertaining to the subject property to substantiate his possession. Though, the 1st respondent in the Counter Affidavit, claim that the property belongs to the Government, however, there is no material placed before this Court to substantiate the same. While being so, the act of the respondents in interfering with the petitioner's property without following procedure contemplated under the Act is wholly impermissible. Hence, the 1st Respondent is restrained from interfering with the petitioner's property without following due process of law.

6. Accordingly, this writ petition is disposed of with the aforesaid direction. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

NHS



To

1. The Divisional Officer,
State Highways,
Gobichettipalayam Division.
2. The Revenue Divisional Officer,
Gobichettipalayam.
3. The Secretary to Government,
Government of Tamil Nadu,
Tamil Nadu Highways Department,
Secretariat, Chennai.

+1cc to Mr.S.Raveekumar, Advocate, S.R.No.34703

+1cc to the Government Pleader, S.R.No.35578

W.P.No.8952 of 2013

SSI (CO)
UMA (07/07/2022)