



W.P.No.28421 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.10.2022

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THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

Writ Petition No.28421 of 2022

P.Prabhakaran

.. Petitioner

Vs.

1. State of Tamil Nadu
Rep. by its Principal Secretary to Government
Highways and Minor Ports Department
Secretariat, Chennai 600 009.
2. State of Tamil Nadu
Rep. by its Secretary to Government
Revenue and Disaster Management Department
Secretariat, Chennai 600 009.
3. The Tahsildar
Sriperumbudur Taluk
Kancheepuram District.
4. The Superintending Engineer
Tamilnadu Road Infrastructure Development
Corporation
4th Floor, LLA Building
735, Anna Salai
Chennai 600 002.



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5. The Assistant Divisional Engineer
Tamilnadu Road Infrastructure Development
Corporation
4th Floor, LLA Building
735, Anna Salai
Chennai 600 002.

6. The State Industries Promotion Corporation
of Tamilnadu (SIPCOT)
Rep. by its Managing Director
19-A, Rukmani Lakshmipathy Road
Egmore, Chennai 600 008.

.. Respondents

Prayer: Writ Petition under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus to call for the entire records of the fifth respondent in his proceedings Letter No.TN.R.In.De.Cor/O.Tho.Va.Thi/Oragadam village/2022 dated 14.10.2022 and to quash the same as being illegal and unsustainable in law and for a consequential direction to the respondents not to interfere with the petitioner's possession and enjoyment of the property in SF No.49/1A2, Plot No.933, Oragadam Village, Sriperumbudur Taluk, Kancheepuram District without following the procedure established by law.

For the Petitioner : Ms.N.Kavitha Rameshwar

For the Respondents : Mr.P.Muthukumar
State Government Pleader
for Respondents 1 to 3



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ORDER
(Made by the Hon'ble Acting Chief Justice)

This writ petition has been filed challenging the notice issued by the fifth respondent on 14.10.2022 directing the petitioner to vacate the property in order to remove the encroachment.

2. Learned counsel appearing for the petitioner submitted that the petitioner purchased the property of an extent of 5074 sq.ft. in SF No.49/1A2, Plot No.933 situated at Alamelu Mangapuram Layout, Oragadam Village, Sriperumbudur Taluk, Kancheepuram District from one K.Thangavel through a registered sale deed No.1966/2003 dated 25.07.2003. Thereafter, he constructed a building and also obtained approval from the authorities concerned vide Approval No.015/03-04.

3. The third respondent, after a period of 19 years, affixed a notice in the building issued under Section 28(2)(ii) of the Tamil Nadu Highways Act, 2001 to submit his reply or to explain in person as to why the alleged encroachment made by constructing commercial building in the Highways property situated in SF No.187/30 at Oragadam Village, Vandalur-Walajabad Road should not be removed.



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As the petitioner was not residing in the building in question, he could not submit his reply or explanation on time.

4. Thereafter, though the petitioner had explained the third respondent with records that shops have been constructed as per the plan in the land in question and that no encroachment has been made, the third respondent was taking steps to demolish the building in question. Hence, the petitioner filed W.P.No.21864 of 2022 and the same was disposed of on 25.08.2022 directing the respondents to resurvey the land in question in the presence of the petitioner and if any encroachment is found, to remove the same.

5. The fifth respondent, after issuing notice to the petitioner on 26.09.2022, surveyed the land in question on 06.10.2022 in the presence of the petitioner and in the absence of the revenue authorities and started demolishing the property without earmarking the boundaries to show as to the exact extent of encroachment. Two shops out of six shops were demolished. Thereafter, the fifth respondent has issued the impugned notice, which, according to the petitioner is unlawful and unjustified and therefore, it is liable to set



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aside.

6. We are unable to find any merit in the writ petition for the following reasons:

(i) The petitioner has purchased the property covered in SF No.49/1A2, Plot No.933 situated at Alamelu Mangapuram Layout, Oragadam Village, Sriperumbudur Taluk. But, the Revenue authorities have issued patta for the property in SF No.49, Plot No.932 and not for Plot No.933. If the Plot number is mentioned erroneously, the petitioner ought to have taken steps to correct the same. In the absence thereof, the action taken by the fifth respondent to remove the encroachment made by the petitioner in SF No.49/1A2, Plot No.933 cannot be found fault with.

(ii) Secondly, a perusal of the patta issued to the petitioner would show that the petitioner is owner of the land in SF No.49, Plot No.932 and not Plot No.933.

(iii) Thirdly, when the notice was issued on 26.09.2022 calling upon the petitioner to be present for survey, as per the direction of this Court, the petitioner cannot say that in the absence of the revenue officials, he cannot cooperate with the fifth respondent, as it



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is not his case that he has to place revenue records relating to SF No.49/1A2, Plot No.933; and

(iv) Lastly, no document was produced by the petitioner to show that he is the owner of the land covered in SF No.49/1A2, Plot No.933, except the certificate issued by the President of the Village Panchayat, which has to be discarded as it is not a revenue document.

7. In view of the above, the writ petition fails and the same is dismissed. There will be no order as to costs. Consequently, WMP Nos.27733 and 27734 of 2022 are also dismissed.

(T.R., ACJ.) (D.K.K., J.)
27.10.2022

Index : Yes/No

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