



W.P.No.30190 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2022

CORAM :

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

AND

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

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M.Shan Basha

.. Petitioner

VS

The Assistant Divisional Engineer,
(Construction & Maintenance)
Tamil Nadu Highways Department,
Pappireddipatti Sub-Division,
Dharmapuri District.

.. Respondent

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari calling for the record relating to the impugned notice dated 07.10.2022 on the file of the respondent in respect of the petitioner's property comprised in Old S.No.833/10, New S.No.833/44, situated at Mookanur Revenue Village, Odasalpatti Post, Dharmapuri Taluk and District measuring 0.0020.0 (20 Sq.mt) and quash the same as illegal and arbitrary.

For the Petitioner : Mr.J.Bharathi Raja

For the Respondent : Mr.P.Muthukumar
State Government Pleader



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ORDER

(Order of the court was made by the Hon'ble Acting Chief Justice)

This writ petition has been filed by the petitioner to quash the impugned notice dated 7.10.2022 issued by the respondent in respect of the petitioner's property comprised in Old S.No.833/10, New S.No.833/44 situated at Mookanur Revenue Village, Odasalpatti Post, Dharmapuri Taluk, measuring an extent 20 sq. mt.

2. The petitioner claiming to be a pattadar of the land in question has filed the writ petition for the relief stated supra.

3. Learned counsel appearing for the petitioner has drawn our attention to a document filed in the typed-set and claimed it to be a patta (Form-4) issued in favour of the petitioner. But a perusal of the same would show that there is no mention about patta number, which means that there is no patta issued in favour of the petitioner.

4. On further perusal of Form-4 dated 25.9.2001 issued by the Zonal Deputy Tahsildar, it is seen that below the table, it has been



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mentioned that people who seek to object the issuance of Form-4 in respect of the land mentioned therein, may submit their objection. Therefore, in our prima facie opinion, the Form-4 dated 25.9.2001 issued by the Zonal Deputy Tahsildar in favour of the petitioner cannot be considered to be a patta. Moreover, the petitioner's piece of land comprised in Old S.No.833/10, New S.No.833/44 is situated in Mookanur Revenue Village just adjacent to the highway, wherein he has constructed a small shed and rented out the same to one Singaram of the same village.

5. When the respondent has issued the impugned notice under Section 28(2) of the Tamil Nadu Highways Act calling upon the petitioner to remove the encroachment within seven days' time, it is for petitioner to submit his objection, if any, to the authority concerned by enclosing relevant documents. However, the petitioner has failed to do so. Therefore, we do not find any merit in the writ petition.

6. Accordingly, the writ petition is dismissed. However, liberty is granted to the petitioner to submit a representation along with relevant documents to the respondent authority and it is for the



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respondent authority to consider the same in accordance with law.

There will be no order as to costs. Consequently, W.M.P.No.29626 of 2022 is closed.

(T.R., ACJ.) (D.K.K., J.)
15.11.2022

Index : Yes/No
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To:

The Assistant Divisional Engineer,
(Construction & Maintenance)
Tamil Nadu Highways Department,
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T.RAJA, ACJ.
AND
D.KRISHNAKUMAR,J.

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