



W.P(MD)No.528, 709, 1000, 1006, 1010, 1014, 2194, 2235, 2239 & 2240 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE PARESH UPADHYAY

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

WEB COPY

W.P (MD) Nos.528, 709, 1000, 1006, 1010, 1014, 2194, 2235, 2239 & 2240
of 2021

and

W.M.P (MD) Nos.452, 453, 591, 875, 876, 880, 882, 887, 886, 889, 890,
1826, 1856, 1861 & 1860 of 2021

and

Cont.P (MD) No.12 of 2021

R.Mohan .. Petitioner in W.P(MD) No.528 of 2021

M.G.R.Nagar and J.J.Nagar Kudiyirupoor Nalasangam,
Rep by its President R.Mohan, Pudukottai Main Road,
M.G.R. Nagar and J.J. Nagar, Trichy

... Petitioner in WP(MD). 709/ 2021
& Cont P.(MD).12 of 2021

R.Marimuthu.	... Petitioner in WP(MD). 1000/ 2021
K.Samsudeen	... Petitioner in WP(MD). 1006/ 2021
S.Abdullah	... Petitioner in WP(MD). 1010/ 2021
R.Palanivelu	... Petitioner in WP(MD). 1014/ 2021
D.Pushpa.	... Petitioner in WP(MD). 2194/ 2021
Ganesan	... Petitioner in WP(MD). 2235/ 2021
A.Indra.	... Petitioner in WP(MD). 2239/ 2021
Manikandan	... Petitioner in WP(MD). 2240/ 2021

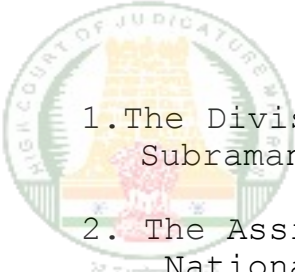
-Vs-

The Assistant Divisional Engineer,
National Highway,
Tiruchirappalli.

.. Respondent in W.P(MD) No.528,
709,1000,1006,1010 & 1014/ 2021

Raju, The Assistant Divisional Engineer,
National Highway,
Tiruchirappalli.

.. Contemnor/Respondent
Cont P.(MD).12 of 2021



1.The Divisional Engineer National Highways ,
Subramaniyapuram, Trichy - 20.

2. The Assistant Divisional Engineer,
National Highways, Subramaniyapuram, Trichy - 20.

3.Raju, Assistant Divisional Engineer ,
National Highways , Subramaniyapuram, Trichy - 20.

... Respondents in WP(MD). 2194,2235,2239 & 2240/ 2021

PRAYER in W.P(MD) No.528 of 2021: Writ Petitions filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records relating to the impugned order passed by the respondent in his proceedings செ.மு.க.எண்.தே.நெ./உகோ.பொ/திருச்சி/ஆக்கிரமிப்பு/2020 dated 30.12.2020 and the consequential impugned order passed by the respondent vide his proceedings Nil dated 30.12.2020 and quash the same as illegal.

Prayer in WP(MD). 709/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, forbear the respondent from in any way dispossessing the members of the petitioners association from their respective places situated in Ward No.AE and AF, TS.No.32,20/1, 34 and 42 at MGR Nagar and JJ Nagar, Jail Corner, Pudukottai Road, Trichy-20 in pursuant to the notices issued to the member of the petitioners association by the respondent vide his proceedings செ.மு.க.எண்.தே.நெ./உகோ.பொ/திருச்சி/ஆக்கிரமிப்பு/2020 dated 31.12.2021 and pass such further or other orders as this Honourable court may deem fit and proper in the circumstances of the case and thus render justice.

Prayer in WP(MD). 1000/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Pleased to issue a Writ of Certiorari calling for the records relating to the impugned order passed by the respondent in his proceedings செ.மு.க.எண்.தே.நெ./உகோ.பொ/திருச்சி/ஆக்கிரமிப்பு/2020 dated 31.12.2020 and the consequential impugned order passed by the respondent vide his proceedings Nil dated 06.01.2021 and quash the same as illegal and pass such further or other orders as this Honourable Court may deem fit and proper in the facts and circumstances of the case and thus render justice.

Prayer in WP(MD). 1006/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Pleased to issue a Writ of Certiorari calling for the records relating to the impugned order passed by the respondent in his proceedings செ.மு.க.எண்.தே.நெ./உகோ.பொ/திருச்சி/ஆக்கிரமிப்பு/2020 dated 31.12.2020 and the consequential impugned order passed by the respondent vide his

proceedings Nil dated 06.01.2021 and quash the same as illegal and pass such further or other orders as this Honourable Court may deem fit and proper in the facts and circumstances of the case and thus render justice.

Prayer in WP(MD) . 1010/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Pleased to issue a Writ of Certiorari calling for the records relating to the impugned order passed by the respondent in his proceedings செ.மு.க.எண்.தே.நெ./உகோ.பொ/திருச்சி/ஆக்கிரமிப்பு/2020 dated 31.12.2020 and the consequential impugned order passed by the respondent vide his proceedings Nil dated 06.01.2021 and quash the same as illegal and pass such further or other orders as this Honourable Court may deem fit and proper in the facts and circumstances of the case and thus render justice.

Prayer in WP(MD) . 1014/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Pleased to issue a Writ of Certiorari calling for the records relating to the impugned order passed by the respondent in his proceedings செ.மு.க.எண்.தே.நெ./உகோ.பொ/திருச்சி/ஆக்கிரமிப்பு/2020 dated 31.12.2020 and the consequential impugned order passed by the respondent vide his proceedings Nil dated 06.01.2021 and quash the same as illegal and pass such further or other orders as this Honourable Court may deem fit and proper in the facts and circumstances of the case and thus render justice.

Prayer in WP(MD) . 2194/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ , order or direction or any other writ in the nature of a Writ of Certiorarified Mandamus call for the records pertaining to the impugned order of the 2nd Respondent dated 01/02/2021 in Se.Mu.Ka.No.The.Ne./Vu.Ko.Po/ Trichy / Encroachment / 2021 and consequential impugned notice dated 02/02/2021 of the 2nd respondent and quash the same and consequently forbear the respondents from interfering with the peaceful possession and enjoyment of the petitioners property in S.No.119/3B situated at Gundur Village , Thiruverumbur Taluk, Trichy District and pass such any or other orders as this Honble Court may deem fit and proper in the circumstances of the case and thus render justice.

Prayer in WP(MD) . 2235/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ order or direction or any other writ in the nature of a writ of certiorarified mandamus call for the records pertaining to the impugned order of the 2nd respondent dated 27.01.2021 in

Se.Mu.Ka.No.The.Ne./Vu.Ko.Po./Trichy/Encroachment/2020 and consequential impugned notice dated 01.02.2021 of the 2nd respondent and quash the same and consequently forbear the respondents from interfering with the peaceful possession and enjoyment of the petitioners property in S.No.119/3B situated at Gundur Village, Thiruverumbur Taluk, Trichy and pass such further or other orders as this Honble High Court may deem fit and proper in the circumstances of the case and thus render justice

Prayer in WP(MD). 2239/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ , Order or direction or any other writ in the nature of a Writ of Certiorarified Mandamus call for the records pertaining to the Impugned order of the 2nd respondent dated 27/01/2021 in Se.Mu.Ka.No.The.Ne / Vu.Ko.Po/ Trichy / Encroachment / 2020 and consequential Impugned notice dated 01/02/2021 of the 2nd respondent and quash the same consequently forbear the respondents from interfering with the peaceful possession and enjoyment of the petitioners property in S.No.119/1 situated at Gundur Village , Thiruverumbur Taluk, Trichy District and pass such any or other orders as this Honble Court may deem fit and proper in the circumstances of the case and thus render justice.

Prayer in WP(MD). 2240/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ order or direction or any other writ in the nature of a writ of certiorarified mandamus call for the records pertaining to the impugned order of the 2nd respondent dated 27.01.2021 in Se.Mu.Ka.No. The.Ne. / Vu.Ko.Po. / Trichy / Encroachment/2020 and consequential impugned notice dated 01.02.2021 of the 2nd respondent and quash the same and consequently forbear the respondents from interfering with the peaceful possession and enjoyment of the petitioners property in S.No.119/1 situated at Gundur Village, Thiruverumbur Taluk, Trichy District and pass such further or other orders as this Honble High Court may deem fit and proper in the circumstances of the case and thus render justice

Prayer in CONT P(MD). 12/ 2021 :

To punish the respondent for the deliberate and willful disobedience of the order dated 30.12.2020 passed by this Hon`ble Court in W.P.(MD).No.19978 of 2020.

Prayer in WP(MD). 19978/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Mandamus or any other appropriate writ or order or direction in the nature of writ to forbear the respondent from in any way

dispossessing the members of the petitioners association from their respective places situated in Ward No. AE and AF, T.S.No.32, 20/1,34 and 42 at MGR Nagar and J.J.Nagar, Jail Corner, Pudukkottai Road, Trichy -20.

For Petitioner:-

Mr. M. Ajmal Khan Senior Counsel for
Mr. C. Venkateshkumar in WP(MD).
No.528, 709,1000,1006,1010 & 1014/ 2021
& Cont P(MD).12 of 2021

For Petitioner:-

M/s. J. Anandkumar
in WP(MD)No.2194/2021

For Petitioner:-

M/s. B. Prasana Vinoth
in WP(MD)No.2235,2239 & 2240/2021

For Respondents:-
(in all Petitions)

Mr.Veera Kathiravan,
Additional Advocate General
Assisted by
Mr.B.Saravanan,
Additional Government Pleader

COMMON ORDER

[Made by R.VIJAYAKUMAR, J.]

These writ petitions have been filed challenging the jurisdiction of the authorities under the State Highways Act for issuing an order of eviction over the alleged encroachment made in National Highways.

2. The contempt petition has been filed against the respondent for the alleged wilful disobedience of the order dated 30.12.2020 passed by this Court in W.P.(MD) No.19978 of 2020.

3. The issue is no longer *res integra*. The Hon'ble Supreme Court of India in the judgment reported in (2021) 10 SCC 505 has held that, after passing of the central enactment namely, 'Control of National Highways (Land and Traffic) Act, 2002', any encroachment in the National Highways has to be dealt with only by the authorities under the National Highways Act and authorities under the State Highways Act will not have any jurisdiction to deal with the encroachments made in the National Highways.

4. Following the judgment of the Hon'ble Supreme Court of India (cited supra), these writ petitions are allowed. The authorities under the National Highways Act are at liberty to initiate proceedings as contemplated under Section 26 of Control of National Highways (Land and Traffic) Act, 2002, if they are so advised. No costs. Consequently, connected miscellaneous petitions would not survive.



W.P(MD)No.528, 709, 1000, 1006, 1010, 1014, 2194, 2235, 2239 & 2240 of 2021

5. In view of allowing of these writ petitions, the contempt petition stands closed.

Sd/-

Assistant Registrar(CS-I)

WEB COPY

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

pkn/14

To:-

1. The Divisional Engineer National Highways ,
Subramaniyapuram, Trichy - 20.
2. The Assistant Divisional Engineer,
National Highways, Subramaniyapuram, Trichy - 20.

- + 2.ccs. To M/s. Ajmal Associates Sr.No.16798, 16799
- + 3.ccs. To M/s. B. PrasanaVinoth Sr.No.16756, 16757, 16758
- + 1.ccs. To M/s. J. Anandkumar Sr.No.16759

W.P(MD)No.528, 709, 1000, 1006, 1010, 1014, 2194, 2235, 2239 and
2240 of 2021
05.04.2022

SB(CO)

TR(19.04.2022) 6P 9C