



WEB COPY

W.P(MD)No.754 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.01.2022

CORAM :

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

and

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P(MD)No.754 of 2022

and

WMP(MD)No.596 of 2022

Muthukumar

... Petitioner

vs.

The Manager (Technical)
Indian National Highway Authority,
The Project Director Office,
No.1, 2nd Floor, Subramaniamapuram
3rd Street, Karaikudi,
Sivagangai District.

... Respondent

Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records of the respondent pertaining to the impugned notice dated 21.12.2021 in respect of Survey Nos.134/2, 134/7 with an extent of 40 sq.mtr. (Bakery and Mechanic Shed) situate Melamuthudaiyanpatti Village, Vellannur Revenue Village, Kulathur Taluk, Pudukkottai District and quash the same.

For Petitioner

: Mr.K.Baalasundharam

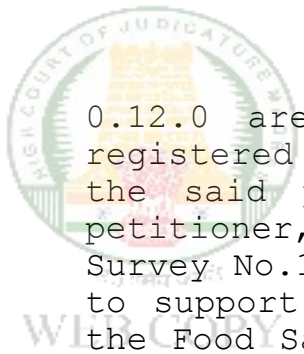
ORDER

(Order of the Court was made by
PUSHPA SATHYANARAYANA, J.)

In this writ petition, the challenge is to the notice issued by the Manager (Technical), Indian National Highway Authority, Karaikudi. The notice specifically states that on the Trichy-Karaikudi National Highway near Muthudaiyanpatti Village, accidents occur frequently. Besides, the respondent authorities proposed to construct a sewerage channel, they wanted to remove all those encroachments along the National Highway. Accordingly, the impugned notice is issued to all the encroachers to raise their objections, if any, within a period of three days from the date of receipt of the notice, otherwise, the encroachments have to be removed by themselves within a period of 7 days. The said notice is put to challenge in this writ petition.

2. In the impugned notice, the survey numbers referred are 134/2 and 134/7 in Muthudaiyanpatti Village. The petitioner has stated in the affidavit that his father purchased an extent of

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0.12.0 ares in Survey No.134/1A1 from one Palanivel through a registered sale deed dated 04.05.1970 and after the settlement of the said property by the petitioner's father in favour of the petitioner, the property was subdivided and patta was granted for Survey No.134/1A2A. But, he has not produced any document of title to support his case. He has only filed the certificate issued by the Food Safety and Drug Administration Department, Pudukkottai and the house tax receipt, which do not relate to the survey numbers mentioned in the impugned notice.

3. Curiously, the petitioner has produced the patta of one Gunasekaran who owns a portion of the land in Survey No.134/7. It is also not known why the patta standing in the name of Gunasekaran for the Survey No.134/7 is filed, when the petitioner by himself is unable to file any document of title in support of his case. Even the writ petition filed by the said Gunasekaran in W.P(MD)No.829 of 2022 challenging the similar notice has been dismissed by us today, holding that he is also an encroacher on the Highways' land. From the above, it is evident that the petitioner is also an encroacher on the Highways' land.

4. The only objection raised by the learned counsel for the petitioner is that the authorities without surveying the lands are trying to remove the petitioner from his possession. When the survey numbers mentioned in the impugned notice are totally unconnected to the claim of the petitioner, the petitioner cannot raise such objection.

5. Be that as it may, though we are not inclined to entertain the writ petition, we only direct the respondent to measure and survey the property before the petitioner is removed as encroacher, so that it will eliminate any doubt in the mind of the petitioner that he has been unauthorisedly thrown out.

6. Therefore, the respondent is directed to measure the property and in the event, the petitioner is in occupation of the survey numbers mentioned in the impugned notice, he may be removed in the manner known to law.

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

Sd/-

Assistant Registrar (CS-I)

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/ /2022

Sub Assistant Registrar(CS)

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To

The Manager (Technical)
Indian National Highway Authority,
The Project Director Office,
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3rd Street, Karaikudi,
Sivagangai District.

W.P(MD)No.754 of 2022
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