



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.01.2022

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P(MD)No.829 of 2022
and
WMP(MD)Nos.671 and 672 of 2022

Gunasekaran

... Petitioner

vs.

The Manager (Technical)
Indian National Highway Authority,
The Project Director Office,
No.1, 2nd Floor, Subramaniyapuram
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 No.134/2, 134/7 with an extent of 33 sq.mtr. in the petitioner's teashop 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 filed Patta No.2626 which stands in his name and it relates to Survey No.134/7. The petitioner has also furnished the sale deed dated 19.11.2008 for having purchased the property from one A.Palanivel. The schedule of property therein shows that he has purchased 529½ sq.ft in old Survey No.134/1B1 and New Survey No.134/5. Though the sale deed is with respect to Survey No.134/5, the patta is with respect to Survey No.134/7 and the learned counsel is unable to say how was this patta obtained or he has got any other title deed with respect to Survey No.134/7. The learned counsel though contended that Survey No.134/7 was an ancestral property, he has not even filed a scrap of paper to show that the petitioner has been in possession therein either by filing a title deed, kist receipt or even a property tax receipt and other documents to evidence his ownership and possession. From the above, it is evident that the petitioner is also an encroacher on the Highways' land.

3. 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.

4. 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.

5. 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.

6. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

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The Project Director Office,
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MGJ(07.02.2022) 3P 2C