



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.06.2022

CORAM:

THE HONOURABLE **MR.JUSTICE S.S.SUNDAR**

and

THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

WEB COPY

W.P(MD)No.9130 of 2022

and W.M.P.(MD) Nos.6535 and 6537 of 2022

Kannan

... Petitioner

Vs.

1.The District Collector,
Dindigul District,
Dindigul.

2.The Tahsildar,
Kodaikanal,
Dindigul District.

3.The Revenue Inspector,
Kodaikanal,
Dindigul District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to Impugned Notice passed by the 3rd respondent in his proceedings Nil, dated 22.03.2022 and quash the same as illegal.

For Petitioner	: Mr.C.Mayilvahana Rajendran
For Respondents	: Mr.N.Satheeshkumar Additional Government Pleader

ORDER

(Order of the Court was made by **S.S.SUNDAR, J.**)

The petitioner in the writ petition has challenged the order passed by the 3rd Respondent, dated 22.03.2022, directing the petitioner to remove the encroachment made by him in a portion of a street/road in S.No.1018 in Mannavanur Village, Kodaikanal Taluk, Dindigul District.

2. Heard Mr.C.Mayilvahana Rajendran, learned counsel for the petitioner and Mr.N.Satheeshkumar, learned Additional Government Pleader appearing for the respondents.

3. The property in which encroachment is noticed is classified as 'Nedunchalai Poramboke'. Since, the impugned notice issued to the writ petitioner is in the nature of direction to the



petitioner to remove the encroachment within 7 days, the submission of learned counsel for the petitioner is that the petitioner was not heard before passing the order. It is his further submission that since the land vests with the Highways Department, the third respondent has no jurisdiction to issue the impugned notice under Tamil Nadu Land Encroachment Act, 1905.

4. This Court, by order dated 21.06.2022, while disposing of the earlier writ petition filed by the petitioner in W.P.(MD) No.2009 of 2018, challenging the impugned order passed by the Assistant Divisional Engineer (Highways), directing the petitioner to remove the encroachment within 7 days, held that the petitioner should be given opportunity to put forth his submission before passing the order. This Court has also directed the respondents to initiate action in accordance with law by passing final orders after considering the objections received from the petitioner. A further direction was issued by this Court to remove the encroachment by following Section 29 of the Tamil Nadu Highways Act, 2001.

5. It is admitted that the land in respect of which action is initiated is the land vested with the Highways Department. Therefore, the proceedings issued earlier was passed by the competent authority. Unfortunately, that order of eviction was passed without issuing show cause notice as contemplated under Section 28(2) of the Tamil Nadu Highways Act, 2001. Now, the impugned notice is issued by the third respondent under Section 7 of the Land Encroachment Act, 1905 by the revenue authorities. This Court has already found that the land vests with the Highways Department. Therefore, the action initiated against the petitioner by the Revenue Inspector by invoking Land Encroachment Act, 1905 is not proper. Hence, following the decision made in the earlier writ petition filed by the petitioner in W.P.(MD) No.2009 of 2019, this Court is unable to sustain the impugned notice for want of jurisdiction.

6. In view of the above, this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/06/2022

Sub Assistant Registrar(CS)

sj



To

1.The District Collector,
Dindigul District,
Dindigul.

2.The Tahsildar,
Kodaikanal,
Dindigul District.

3.The Revenue Inspector,
Kodaikanal,
Dindigul District.

+1 CC to M/s.C. MAYIL VAHANA RAJENDRAN, Advocate (SR-27234[F] dated 21/06/2022)

+1 CC to M/s.SPL.GP (SR-27701[F] dated 23/06/2022)

W.P (MD)No.9130 of 2022
21.06.2022

SRK(CO)
KB(29.06.2022) 3P 6C