



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.05.2022

CORAM

THE HONOURABLE MR.JUSTICE **R.SURESH KUMAR**

and

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

W.P (MD) .Nos.10524 & 10531 of 2022

and

W.M.P(MD)No.7648 & 7659 of 2022

K.Muthuraman

... Petitioner

(In W.P(MD) No.10524/2022)

Kalaiselvi

... Petitioner

(In W.P(MD) No.10531/2022)

Vs.

1.The Secretary to Government of Tamilnadu,
Highways Department,
Secretariat,
St.George Fort,
Chennai.

2.The District Collector,
Pudukottai District,
Pudukottai.

3.The Assistant Engineer,
(Highways) (Buildings and Maintenance) Office,
Highways Department,
Avudaiyarkovil,
Pudukottai District.

4.The Tahsildar,
Avudaiyarkovil Taluk,
Avudaiyarkovil,
Pudukottai District.

... Respondents

in both WPs

Common Prayer: Petitions filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus praying to call for the records and for quashing the impugned eviction notice issued by the third respondent in encroachment eviction notice dated 07.04.2022 and further issue a direction directing the second and third respondents to fix the alignmnet of the said road



as measured earlier and not to deviate from the old measurement and the old alignment which runs in a straight line and not to fix in the petitioners' land, which runs crossly and in total deviation of the earlier alignment.

WEB COPY

For Petitioners	: Mr.R.Anandharaj (In both writ petitions)
For Respondents	: Mr.J.Ashok Additional Government Pleader (In W.P(MD) No.10524 of 2022)
For R1 to R3	: Mr.S.Shaji Bino Special Government Pleader (In W.P(MD) No.10531 of 2022)

C O M M O N O R D E R

(Order of the Court was made by **R. SURESH KUMAR, J.**)

Since the prayer sought for in these writ petitions are similar to each other and the issue raised herein is common one, both the writ petitions were heard together and disposed of by this common order.

2.That the respective petitioners claim to have patta land abutting the Pudukottai Yembal Road between 45/6 - 46/0 kms at Yembal Village, Pudukottai District. The said road is to be expanded by the respondent Highways Department. Therefore, in order to expand the road, they wanted the encroachment of the road margin belongs to the Highways Department to be removed. Therefore, they issued a general notice to all such encroachers on 07.04.2022, including the petitioners. Challenging the same, the present writ petitions have been filed.

3.Heard Mr.R.Anandharaj for Mr.KR.Bharathi Kannan, learned counsel appearing for the petitioners in both writ petitions, who would submit that insofar as the land belongs to the petitioners, where the petitioners have already put up construction is concerned, a patta land and it is not an occupation or encroachment, therefore, the notice, which is impugned herein ought not to have been issued to the petitioners as if treating the petitioners as encroachers, therefore, on that ground the impugned notice is under challenge, they contended.

4.Mr.S.Shaji Bino, learned Special Government Pleader and Mr.J.Ashok, learned Additional Government Pleader, who have taken notice for the respondents, on instructions submitted on behalf of the respondents that for the proposed road extension, the respondents want to remove only the encroachments and in this process no patta land would be touched by the respondents. With

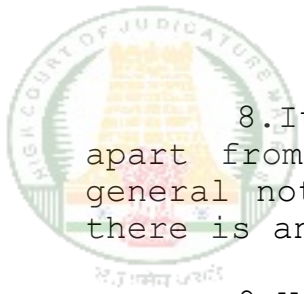


regard to the prayer sought for that the road originally was planned to be expanded by way of a straight line, now it has been made by making a small bend in front of the petitioners' property is concerned, it is based on the feasibility of the road expansion, such kind of deviation would always be made, however, in this case, even no such deviation has been made and it is going to be expanded by way of a straight line. In this regard, the respondents have also filed a copy of FMB Sketch for Survey No. 317 of Yembal Village, Avudaiyarkovil Taluk, Pudukottai District, where the built up portion of the petitioners also have been shown, wherein, in the front portion, there has been some encroachment by projecting their construction by both the petitioners, only the encroached portions are to be removed, therefore notice also had been given to the petitioners.

5. Having heard the said submissions made by both sides and considering the documents, which are filed before this Court for perusal, we find that insofar as the petitioners' property, that is, the built up area, where such construction has been made in the land belonged to the petitioners are concerned, absolutely, there could be no move on the part of the respondents to take away or to demolish the construction made by the petitioners.

6. The respondents concern is only to in respect of the occupied or encroached portion that has been projected on the land belonged to the Highways Department, which is the hindrance to the expansion work as proposed, therefore, if at all, the respondents want to take the encroached portion, that is, the front side of the building of the petitioners, they can very well do the same, however, insofar as the petitioners' property, that is, the building constructed in the patta land is concerned, the respondents have no right to interfere and in this regard, the procedure contemplated under the Highways Act/ Land Acquisition Act can always be open to be invoked.

7. In that view of the matter, the present notice, which is impugned herein, issued by the respondents as a general notice to all the encroachers is concerned, that can only be treated as a notice for the encroached portion alone of the petitioners and in that respect, instead of proceeding pursuant to the impugned notice, the respondents can issue a specific individual notice to both the petitioners, wherein, the encroached portion by both the petitioners can be earmarked and in respect of those encroached portion alone, the petitioners may be directed to remove such encroachments. Such notice shall be issued within seven days from the date of receipt of a copy of this order. On receipt of the same, such encroached portion shall be removed by the petitioners themselves, within seven days thereafter, failing which, the respondents are at liberty to take action to remove such encroachment.



8.It is made clear that in respect of other encroachers, apart from these petitioners, since the impugned notice given as general notice to them also, the same procedure may be adopted, if there is any individual lands are involved.

9.With these observations, both these writ petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Vacation Officer/
Assistant Registrar

// True Copy //

28/05/2022

Sub Assistant Registrar(CS)

VRN/PJL

To

1.The Secretary to Government of Tamilnadu,
Highways Department,
Secretariat,
St.George Fort,
Chennai.

2.The District Collector,
Pudukottai District,
Pudukottai.

3.The Assistant Engineer,
(Highways) (Buildings and Maintenance) Office,
Highways Department,
Avudaiyarkovil,
Pudukottai District.

4.The Tahsildar,
Avudaiyarkovil Taluk,
Avudaiyarkovil,
Pudukottai District.

+1 CC to M/s.SPL.GP (SR-24176[F] dated 27/05/2022)

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and

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