



W.P.(MD)No.14214 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.07.2022

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THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**
and
THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P(MD)No.14214 of 2022
and
W.M.P(MD)No.10160 of 2022

The Pentecostal Mission Society,
represented by its Manager-cum-Officer of the Society,
Yobu Samuel, Chennai-600 063. ... Petitioner

Vs.

- 1.The Junior Engineer,
(Highways Construction and Maintenance),
Paramakudi, Ramanathapuram District.
- 2.The Tahsildar,
Paramakudi, Ramanathapuram District.
- 3.The Inspector Police,
Paramakudi, Ramanathapuram District. ... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the impugned proceedings issued by the first respondent Junior Engineer (Highways Construction and Maintenance), Paramakudi in Na.Ka.No. 99/2022/E.Ni.Po, dated 23.06.2022 and to quash the same.

For Petitioner :Mr.Isaac Mohanlal
Senior Counsel
for M/s.Isaac Chambers
For Respondents :Mr.J.Ashok
Additional Government Pleader



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ORDER

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

Challenging the impugned notice, dated 23.06.2022 issued by the first respondent, the above Writ Petition is filed.

2.Heard Mr.Isacc Mohanlal, learned Senior Counsel for the petitioner, Mr.J.Ashok, learned Additional Government Pleader, who takes notice for the respondents. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3.The petitioner states that the petitioner society is a Religious Charitable society. On the basis of sale deeds stated to have been obtained by them in respect of S.Nos.225/1A, 407/7, 407 /8 and an extent of 2.26 acres in S.No.406/3 at Urapuli Village, Paramakudi Taluk, Ramanathapuram District, the petitioner claims title to the property. It is stated that the petitioner's vendors and their predecessors-in-interest were in peaceful possession and enjoyment by holding patta.

4.It is stated by the petitioner that the petitioner society is using part of its land as cemetery as per the permission accorded by the Tahsildar, by proceedings, dated 05.08.2015. However, the petitioner



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be done in the presence of the persons, who are interested or the persons, who are found to be encroachers after issuing notice to them.

Therefore, the impugned order is liable to be quashed on ground of violation of principles of natural justice. Accordingly, the same is quashed and the Writ Petition is allowed with the following directions:

(1)It is open to the first respondent to initiate proceedings afresh after getting a report from the Tahsildar, as to the actual encroachment.

(2)The second respondent is directed to conduct a survey after issuing notice to the petitioner and draw a report whether the petitioner is in encroachment of any land belonging to the State Highways. The second respondent shall issue notice well in advance to the petitioner as to the date and time fixed for surveying the land. The second respondent is directed to send a report to the first respondent. The entire exercise shall be completed by the second respondent within a period of six weeks from the date of receipt of a copy of this order.

(3)After getting a report from the second respondent, the first respondent shall initiate proceedings for removal of encroachment, if the report reveals that the petitioner or anyone is in encroachment of any portion of the Highways. Final order can be passed only after considering the objections/representation of the petitioner. The first respondent shall complete the entire proceedings within a period of eight weeks from the



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date of receipt of a report from the Tahsildar.

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No costs. Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.] [S.S.Y., J.]
05.07.2022

Index : Yes / No
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- 1.The Junior Engineer,
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