



W.P.(MD)No.14277 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.07.2022

CORAM:

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

W.P.(MD)No.14277 of 2022
and W.M.P.(MD) No.10203 of 2022

Murugesan

... Petitioner

Vs.

- 1.The Divisional Engineer,
Tamil Nadu State Highways Department,
Bungalow Medu, Theni,
Theni District.
- 2.The Assistant Executive Engineer,
Near RMTC Dippo, Bodinayakkanoor,
Tamil Nadu State Highways Department,
Theni Division,
Theni District.
- 3.The District Collector,
District Collector Office,
Theni District.
- 4.The Revenue Divisional Officer,
Revenue Divisional Office,
Uthamapalayam,
Theni District.
- 5.The Thasildar,
Taluk Office, Uthamapalayam,
Theni District.



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6.Bakkiyaraj

7.Vignesh

8.Alagesh

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the Respondents 1 to 5 to remove the encroachment made by the Respondents No.6 to 8 in front of the Petitioner's house on the Uthamapalayam to Thevaram State High Way Road which is situated in Mettupatti, Uthamapalayam Taluk, Theni District as per Section 28 of the Tamil Nadu Highways Act, 2001 and other relevant provisions of law by considering the Petitioner's representation dated 20.06.2022 within a stipulated time that may be fixed by this Hon'ble Court.

For Petitioner : Mr.R.Karunanidhi

For Respondents 1 to 5 : Mr.S.P.Maharajan
Special Government Pleader

ORDER

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

This Writ Petition has been filed for issuance of a Writ of Mandamus, directing the respondents 1 to 5 to remove the encroachment made by the respondents 6 to 8 in front of the petitioner's house on the Uthamapalayam to Thevaram State High



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Way Road, which is situated in Mettupatti, Uthamapalayam Taluk, Theni District as per Section 28 of the Tamil Nadu Highways Act, 2001 and other relevant provisions of law, based on the petitioner's representation dated 20.06.2022 within a time frame.

2. Heard Mr.R.Karunanidhi, learned counsel for the petitioner and Mr.S.P.Maharajan, learned Special Government Pleader for the respondents 1 to 5. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3. Having regard to the order proposed to be passed in this writ petition, notice to the respondents 6 to 8 is dispensed with.

4. It is the specific case of the petitioner that the respondents 6 to 8 have encroached the land belongs to Tamil Nadu Highways Department, which is in front of the petitioner's house, on the Uthamapalayam to Thevaram State High Way Road, which is situated in Mettupatti, Uthamapalayam Taluk, Theni District. Since the representations made by the petitioner to the official



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respondents for removal of encroachment did not evoke any response, the petitioner has filed this Writ Petition.

5. Learned Special Government Pleader appearing for the respondents 1 to 5 on instructions submitted that the respondents have not identified the encroachment.

6. From the photographs produced, it is seen that there is some encroachment, just on the road side, by collecting materials like Sand, Jalli and Rough Stones, indicating that construction activities are going on just abutting the road. Though the petitioner states that there is a vacant land measuring about 20 feet width between his house and Highways, it is a road side poramboke and the private respondents have no right to occupy or encroach it.

7. Since the petitioner's representations have not been considered, this Court is of the view that appropriate direction can be issued to the fifth respondent to consider his representation after issuing notice to the petitioner and other private respondents.



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8. Accordingly, the Writ Petition is disposed of directing the 5th respondent to conduct a survey after issuing notice to the petitioner as well as respondents 6 to 8 and find out whether the respondents 6 to 8 have encroached into any portion of the road or public property. After conducting survey, the fifth respondent shall draw a report about the extent and manner of encroachment, if any, and sent the report to the petitioner as well as respondents 1 and 2 within a period of eight weeks from the date of receipt of a copy of this order. Depending upon the report of the Tahsildar/5th respondent, respondents 1 and 2 shall take appropriate action as against the respondents 6 to 8 or any one for removal of encroachment, if it is found that any portion of the road or road margin or road poramboke is being encroached by any one of the private respondents or a member of public. It is also open to the petitioner to file a suit to establish the easementary right, as a person having his property abutting the road. No costs. Consequently, connected Miscellaneous Petition is closed.

[S.S.S.R., J.] [S.S.Y., J.]
06.07.2022

Index : Yes / No

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S.S.SUNDAR, J.

and

S.SRIMATHY, J.

sj

To

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