



W.P.(MD)No.19720 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 25.08.2022

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

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R.S.Annandurai

... Petitioner

Vs.

1.The District Collector,
Kanyakumari District,
Nagercoil.

2.The Tahsildar,
Viralimalai Taluk,
Pudukottai District.

3.The Executive Engineer,
National Highway Department,
Pudukottai,
Pudukottai District.

4.Masillamani
5.Thankaponnu

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the respondents 1 to 3 to remove the encroachment made by the respondents 4 and 5 in Sy.No.248/1 of



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Rajalipatti Village, Viralimalai Taluk, Pudukottai District.

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For Petitioners :Mr.K.P.Narayanakumar
For R1 to R3 :Mr.N.N.Satheeshkumar
Additional Government Pleader

ORDER

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

This Writ Petition is filed for issuance of a writ of Mandamus directing the respondents 1 to 3 to remove the encroachment made by the fourth and fifth respondents in Sy.No.248/1 of Rajalipatti Village, Viralimalai Taluk, Pudukottai District.

2.Heard Mr.K.P.Narayanakumar, learned counsel appearing for the petitioner and Mr.N.Satheesh Kumar, learned Additional Government Pleader appearing for the respondents 1 to 3.

3.The case of the petitioner is that he is the owner of the land in S.No.252/2 to an extent of 3.30 cents in Rajalipatti Village. It is his further case that on the southern side of his property, a Highway poramboke land



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is located in S.No.248/1. Alleging encroachment made by the private respondents, the petitioner has come forward for issuing appropriate direction to the official respondents to remove the encroachment.

4.The learned Additional Government Pleader, on instructions submitted that the petitioner himself has encroached a portion of Highway poramboke, which vest with the State Highways.

5.The petitioner sent several representations to the official respondents and requested them to remove the encroachment, by considering his representation and then to hear the objections, if any of the so called encroachers. Since the petitioner himself is now stated to be an encroacher, this Court is inclined to dispose of the writ petition in the following lines:

(a)The Tahsildar, Pudukottai District/second respondent is directed to conduct a survey of the alleged encroachment, after issuing notice to the encroachers as well as the petitioner.



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(b) Since it is represented that the second respondent has already given an undertaking to conduct a survey after issuing notice to the persons interested, the second respondent is directed to complete the survey within a period of three weeks from the date of receipt of a copy of this order.

(c) In case, the inspection by the second respondent reveals that there are encroachments by several others in the Government poramboke land, the second respondent shall initiate proceedings for removal of encroachment, as per Section 28(2) of the State Highways Act.

(d) It is made clear that the competent authority viz., Divisional Engineer of Highways, is expected to issue notice to the encroachers including the petitioner and calling upon him to show cause why the encroachment made by them cannot be removed and thereafter to pass final orders, after considering the objections and representations of the encroachers.

(e) In the event the petitioner is found to be an encroacher, as it is alleged by the learned Additional Government Pleader, action shall be taken by following due procedure and after affording sufficient



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opportunity to the encroachers and the petitioner to put forth their case.

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(f)The competent authority under the Highways Act, is directed to commence the proceedings within four weeks, in case the encroachment is identified and complete the same within a period of three months thereafter.

No costs.

[S.S.S.R., J.] [S.S.Y., J.]
25.08.2022

Index:Yes/No

Internet:Yes

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To

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