



W.P.(MD) No.22656 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

AND

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.(MD)No.22656 of 2022

V.Nammazhvar

... Petitioner

-Vs-

1.The District Collector,

Thoothukudi, Thoothukudi District.

2.The Project Director / Authorized Officer,

National Highways 45B,

National Highways Authority of India,

Projects Wing, Thoothukudi.

3.The Assistant Divisional Engineer,

Highways Department, Constructions and Maintenance,

Ottapidaram, At Kurukku Salai,

Thoothukudi.

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4.The Tahsildar,

Ottapidaram Taluk, Thoothukudi District.

5.The Inspector of Police,

Ottapidaram Police Station,

Thoothukudi District.

6.Harichandran

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 5 to remove the encroachment made by the 6th respondent in Palayamkottai-Kurukku Salai-Kulathur-Vilathikulam-Nagalapuram-Pandhalkudi-Aruppukottai Road K.M. 48/10 and National Highways 45B based on the petitioner's representations dated 22.06.2022 and 06.08.2022.

For Petitioner : Mr.RJ.Karthick

For R1 to R4 : Mr.N.GA.Nataraj,
Government Advocate.

For R5 : Mr.T.Senthil Kumar,
Additional Public Prosecutor.



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ORDER

[Order of the Court was made by R.MAHADEVAN, J.]

This Writ Petition has been filed, seeking a direction to the respondents 1 to 5 to remove the encroachment made by the 6th respondent in Palayamkottai – KurukkuSalai – Kulathur – Vilathikulam – Nagalapuram – Pandhalkudi - Aruppukottai Road K.M.48/10 and National Highways 45B, based on the petitioner's representations dated 22.06.2022 and 06.08.2022.

2.Mr.N.GA.Nataraj, learned Government Advocate takes notice for the respondents 1 to 4 and Mr.T.Senthil Kumar, learned Additional Public Prosecutor takes notice for the 5th respondent. Considering the nature of the order proposed to be passed, notice to the 6th respondent is dispensed with.

3.By consent of both parties, this Writ Petition is taken up for final disposal at the admission stage itself.



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4.The petitioner claims that the 6th respondent is running a tea shop in the entrance of the petitioner's property by encroaching the State Highway and also blocked the pathway of the petitioner's property. Therefore, the tenant of the petitioner, namely, Mahesh gave a complaint to the Deputy Superintendent of Police, Maniyachi. During the enquiry conducted on 29.05.2022, the 6th respondent has admitted that he had encroached the highways' property for the past 15 years and also undertaken to remove the same. However, he did not remove the encroachment. Hence, the tenant of the petitioner made a representation dated 31.05.2022 to the respondents 1 and 3, however, the same has not been considered. Therefore, the petitioner made a representation dated 22.06.2022, to the respondents 3 and 4 followed by another representation dated 06.08.2022 to the 2nd respondent. Since the said representations have not been considered till date, the petitioner has filed this Writ Petition.

5.The learned Government Advocate appearing for the respondents 1 to 4 has produced a proceedings of the 4th respondent in Na.Ka.A3/219/2022,

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dated 27.09.2022 and submitted that after conducting survey, it was found that there is an encroachment as pointed out by the petitioner and a communication has been sent to the Highways' Department for removal of those encroachment.

6.Recording the abovesaid proceedings dated 27.09.2022, this Court directs the 4th respondent to remove the encroachment made by the 6th respondent by considering the representations of the petitioner, dated 22.06.2022 and 06.08.2022, after giving opportunity of hearing to all the parties concerned and by following due process of law, within a period of eight (8) weeks from the date of receipt of a copy of this order.

7.With the above direction, this Writ Petition is disposed of. No costs.

[R.M.D., J.] & [J.S.N.P., J.]

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Index : Yes / No

Internet : Yes / No

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AND

J.SATHYA NARAYANA PRASAD, J.

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