



W.P.(MD)No.25084 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.11.2022

CORAM:

**THE HON'BLE MR.T.RAJA, THE ACTING CHIEF JUSTICE
and
THE HON'BLE MR.JUSTICE R.MAHADEVAN**

**W.P.(MD)No.25084 of 2022
and
WMP(MD)Nos.19187 and 19188 of 2022**

A.Abdul Bari

... Petitioner

-VS-

The Assistant Divisional Engineer,
Highways, Ka(ma)Pa,
Oddanchatram,
Dindigul.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned notice in Na.Ka.No.67/2022/A2 dated 12.10.2022 issued by the respondent and quash the same as illegal and consequently direct the respondent to consider and pass orders on the petitioner's reply / representation dated 30.05.2022.



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For Petitioner : Mr.C.Arulvadivel @ Sekar
For Respondent : Mr.G.V.Vairam Santhosh
Additional Government Pleader

ORDER

**[Order of the Court was made by
The Hon'ble The ACTING CHIEF JUSTICE]**

Mr.A.Abdul Bari, son of Abdul Azeez, claiming to be the owner of the properties covered in Survey No.31, Oddanchatram Village, Dindigul District, has filed this writ petition challenging the notice dated 12.10.2022 in Na.Ka.No.67/2022/A2 issued by the respondent with a consequential direction to him to consider and pass orders on the petitioner's reply / representation dated 30.05.2022.

2. Learned counsel for the petitioner submits that the petitioner is the owner of the properties situated in Survey No.31, Oddanchatram Village, Dindigul District. He is also having three buildings in the said survey number with Door Nos.110/A, 110/B, 110/C and 110/D. Door No.110/A is a medical shop run by the



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petitioner's son Dr.Abdul Azeez Thofiq, Door No.110/B is a residential property and Door Nos.110/C and 110/D are clinics run by the petitioner's son. Door No.111 belongs to the petitioner's brother's wife Mrs.A.Shalma Baris. They are all in continuous possession and enjoyment of the aforesaid properties. It is also claimed that the petitioner's ancestors have purchased those properties in the years 1953 and 1970 through registered sale deeds. All of a sudden, a notice dated 18.05.2022 has been issued by the respondent under Section 28(2)(ii) of the Tamilnadu Highways Act, 2001, alleging that the petitioner has encroached an extent of 0.01.00 ares of the Highways' land situate in Survey No.773/14 in Dindigul – Coimbatore – Thimmam - Bangalore road and the petitioner was directed to remove the alleged encroachment within 15 days time. Since the said notice was issued pursuant to an order passed by this Court in W.P(MD)No.4773 of 2019 dated 01.02.2019, a detailed representation has been given by the petitioner on 30.05.2022, denying the allegation that he has not put up any construction.



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3. Learned counsel for the petitioner further submits that it is an admitted case that the petitioner is the absolute owner of the properties covered in Survey No.31, whereas, the respondent has issued the notice saying that the petitioner has encroached the Highways' land in S.No.773/14. He further submitted that after a detailed survey is undertaken by the respondent in the presence of the petitioner with the relevant documents, the respondent may be permitted to proceed with removal of encroachments, if any in the place in question.

4. It is at this stage, the learned Additional Government Pleader appearing for the respondent submitted that a detailed survey will be undertaken by the respondent in the presence of the petitioner. The said submission is recorded.

5. If the petitioner is having documents in support of his claim, he may submit the same to the respondent and after examining the same along with relevant revenue records, the respondent shall



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direct the Surveyor concerned to survey the lands in question on 07.11.2022 at 11.00 a.m., and if there is any encroachment therein as indicated in the impugned order, the same shall be removed by following the due process of law. Till such time, the *status quo* as on date shall be maintained by the parties.

6. With the above direction, the Writ Petition is disposed of.
No costs. Consequently, connected miscellaneous petitions are closed.

[T.R., A.C.J.] [R.M.D., J.]
04.11.2022

Index : Yes / No
Internet : Yes / No
bala/smn2

To

The Assistant Divisional Engineer,
Highways, Ka(ma)Pa,
Oddanchatram,
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THE HON'BLE THE ACTING CHIEF JUSTICE
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