



W.P.(MD)No.25965 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.11.2022

WEB COPY

CORAM

THE HONOURABLE MR.JUSTICE **R.MAHADEVAN**
and
THE HONOURABLE MR.JUSTICE **J.SATHYA NARAYANA PRASAD**

W.P(MD)No.25965 of 2022

Mathias

... Petitioner

Vs.

- 1.The District Collector,
Nagercoil,
Kanyakumari District.
- 2.The Divisional Engineer,
Construction and Maintenance,
Tamilnadu State Highways Department,
Nagercoil, Kanyakumari District.
- 3.The Assistant Divisional Engineer,
Tamilnadu State Highways Department,
Kuzhithurai, Kanyakumari District.
- 4.The Tahsildar,
Killiyoor Taluk,
Kanyakumari District.
- 5.The Superintendent of Police,
Nagercoil,
Kanyakumari District.

6.Rajamani

7.Johnson

... Respondents



W.P.(MD)No.25965 of 2022

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Mandamus, to direct the 1 to 5th Respondents to remove the encroachments made on the highways in Survey No.327 situated at Vattakottai, Palloor village, Killiyoor Taluk, Kanyakumari District on the basis of 3rd Respondent order in Letter No.23/2021/A2 dated 28.06.2021 made by the 6th and 7th Respondents within a stipulated time.

For Petitioner : Mr.N.S.Ramakrishna Dass
For Respondents 1 to 4 : Mr.P.Thilak Kumar
Government Pleader
For 5th Respondent : Mr.T.Senthil Kumar,
Additional Public Prosecutor

* * *

ORDER

(Order of the Court was made by **R.MAHADEVAN, J.**)

The petitioner has come forward with this writ petition praying to issue a writ of mandamus, directing the Respondents 1 to 5 to remove the encroachments made by the respondents 6 and 7 on the highways in Survey No.327, situated at Vattakottai, Palloor village, Killiyoor Taluk, Kanyakumari District, on the basis of 3rd Respondent order in Letter No.23/2021/A2 dated 28.06.2021, within a time frame.



W.P.(MD)No.25965 of 2022

2. Heard Mr.N.S.Ramakrishna Dass, learned counsel for the petitioner, Mr.P.Thilak Kumar, learned Government Pleader, who accepts notice on behalf of the respondents 1 to 4 and Mr.T.Senthil Kumar, learned Additional Public Prosecutor, who accepts notice on behalf of the 5th respondent. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3. Having regard to the nature of the order proposed to be passed in this writ petition, notice to the respondents 6 and 7 is dispensed with.

4. Alleging that the respondents 6 and 7 have made encroachment on the highways in Survey No.327, situated at Vattakottai, Palloor village, Killiyoor Taluk, Kanyakumari District, by constructing shops and though the fourth respondent – Tahsildar conducted a survey and sent a report to the 3rd respondent – Assistant Engineer (Highways), Construction and Maintenance, Kuzhithurai, along with Form – I, for taking further action and the 3rd respondent has also issued notice to the respondents 6 and 7 to remove the encroachment within 7 days, by his communication in



W.P.(MD)No.25965 of 2022

Letter No.23/2021/A2 dated 28.06.2021, till date, no further action has been taken, the petitioner submitted a representation to the official respondents on 26.08.2021, and the same, according to the learned counsel for the petitioner, remains as such. Hence, the Writ Petition.

5. Learned counsel for the petitioner would further submit that though the petitioner has sought for a larger relief, he would be satisfied, if a direction is issued to the third respondent to dispose of his representation dated 26.08.2021, within a time frame.

6. Considering the limited scope of the prayer now sought for by the petitioner, without expressing any opinion on the merits of the claim made by the petitioner, either in the representation or in the affidavit filed in support of the Writ Petition, this Writ Petition is disposed of with a direction to the third respondent to consider the representation of the petitioner dated 26.08.2021, and pass appropriate orders on merits and in accordance with law. If there is any encroachment as claimed by the petitioner, after issuing notice and conducting survey in the



W.P.(MD)No.25965 of 2022

presence of the petitioner, the respondents 6 and 7 and any other parties concerned, the authorities concerned shall take necessary action for removal of the encroachment, after affording an opportunity of hearing to all the parties concerned and by following due process of law. Such an exercise shall be completed within a period of Twelve weeks from the date of receipt of a copy of this order. No costs.

[R.M.D., J.] [J.S.N.P., J.]
17.11.2022

Internet : Yes / No

Index : Yes / No

sj

To

- 1.The District Collector,
Nagercoil,
Kanyakumari District.
- 2.The Divisional Engineer,
Construction and Maintenance,
Tamilnadu State Highways Department,
Nagercoil, Kanyakumari District.
- 3.The Assistant Divisional Engineer,
Tamilnadu State Highways Department,
Kuzhithurai, Kanyakumari District.
- 4.The Tahsildar,
Killiyoor Taluk,
Kanyakumari District.



WEB COPY



W.P.(MD)No.25965 of 2022

R.MAHADEVAN, J.

and

J.SATHYA NARAYANA PRASAD, J.

sj

5.The Superintendent of Police,
Nagercoil,
Kanyakumari District.

W.P(MD)No.25965 of 2022

17.11.2022