



WEB COPY



W.P. No.2904 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2023

CORAM:

THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN

and

THE HONOURABLE MR. JUSTICE K.RAJASEKAR

W.P. No.2904 of 2020 and W.M.P. Nos.3359 and 24707 of 2020

V. Harikrishnan

Petitioner

v

1 The Assistant Divisional Engineer
Highways Department (Construction & Maintenance)
Arcot
Ranipet District

2 The Divisional Engineer
Highways Department (Construction & Maintenance)
Vellore
Vellore District

Respondents

Writ Petition preferred under Article 226 of the Constitution of India seeking a writ of *certiorari* to call for the records of the first respondent made in notice no.4/2020/E.Ne.Vu. dated 01.02.2020 and quash the same as illegal, arbitrary and non-est in law.

For petitioner Mr.A.R. Balaji

For respondents Mr. J. Ravindran
Additional Advocate General (Coordination)
assisted by
Mr. A. Selvendran
Special Government Pleader



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ORDER

(made by S. VAIDYANATHAN, J.)

This writ petition impugns the notice dated 01.02.2020 issued by the first respondent under Section 28 of the Tamil Nadu Highways Act, 2001, whereby and whereunder, the petitioner has been *inter alia* directed to remove the encroachment made by him in the land belonging to the Highways Department within a week, failing which, it was stated that the encroachment will be removed by the Highways Department, in which event, the petitioner's belongings will not be returned.

2 According to the petitioner, he is the owner of the land in question by virtue of the will executed by his father, whereupon, he has constructed a building and has been in continuous possession, occupation and enjoyment of the same and he has also been paying tax periodically.

3 Admittedly, the land upon which the petitioner has put up construction, belongs to the Highways Department. However, according to the learned counsel for the petitioner, only a portion of the land of the Highways Department has been encroached by the petitioner.



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4 Be that as it may, we are not inclined to go into the said aspect and we hold that the encroachment made by the petitioner has to be removed.

Be it noted, as stated in the opening paragraph, a week's time was granted to the petitioner by the notice impugned and now, almost four years have gone by since then.

5 In such perspective of the matter, it is made clear that the petitioner shall vacate the premises within a period of one month from the date of receipt of a copy of this order, failing which, with police aid, the encroachment can be removed by the respondents by demolishing the violated portion. In case, the encroachment is not removed within the stipulated time, appropriate action shall be taken against the officials concerned in the light of the order in **N.Sankar v The Principal Secretary, Town and Country Planning, Government of Tamil Nadu and 3 others¹** passed by a Coordinate Bench of this Court, in which, one of us (SVNJ) was a Member.

This writ petition stands disposed of with the above directions, sans costs. Connected W.M.Ps. are closed.

(S.V.N., J.) (K.R.S., J.)
14.12.2023



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S. VAIDYANATHAN, J.

and

K. RAJASEKAR, J.

cad

To

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Highways Department (Construction & Maintenance)
Arcot
Ranipet District
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