



W.P.No.4819 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2023

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.4819 of 2023

and W.M.P.Nos.4844 and 4848 of 2023

1.Ellappan
2.Gopal
3.Rukmani

.. Petitioners

Vs

1.The District Collector,
District Collector Office,
Erode.

2.The Tahsildar,
Anthiyur,
Erode District.

3.The Assistant Engineer,
Highways Department, Anthiyur,
Erode District.

4.R.Chinnusamy

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus to call for the records on the file of third respondent dated 1.2.2023 issued under Section 23(2)(ii) of the Tamil Nadu Highways Act, 2001 against the



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petitioners and quash the same as illegal, arbitrary, unsustainable in law and forbear the respondents from disturbing the petitioners peaceful possession over the lands in Re-Survey No.418/1 situated at No.28, Ammapettai B Village, Anthiyur Taluk, Erode District-638 311.

For the Petitioner : Mr.AR.M.Arunachalam

For the Respondents : Mr.P.Muthukumar
State Government Pleader
for respondent Nos.1 to 3

ORDER

(Order of the court was made by the Hon'ble Acting Chief Justice)

The application, being W.M.P.No.4844 of 2023, filed to permit the petitioners to file a single writ petition is allowed, inasmuch as they have paid separate court-fee.

2. The petitioners have filed this writ petition challenging the impugned notices dated 1.2.2023 issued by the third respondent, whereby the petitioners have been called upon to vacate and hand over the roadside margin land occupied by them.



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3. Learned counsel appearing for the petitioners contended that the petitioners are residents of the land covered in Survey No.418/2 situated at No.28, Ammapettai B Village, Anthiyur Taluk, for over a period of four decades. Apart from the petitioners, there are other occupants living in the said land. Learned counsel would submit that considering their long possession of the land in question, they have been assessed to property tax and they have also obtained electricity service connections for their houses. The petitioners have also been issued Voters Identity Card, Aadhar Card and such other Government authorised Identity Cards. While so, the issuance of impugned notices on the basis of the order passed by this Court in W.P.No.33990 of 2022 dated 20.12.2022 filed by the fourth respondent calling upon the petitioners to vacate and hand over possession of the land in question is unacceptable, as the petitioners were not made as respondents in the said writ petition.

4. We are unable to find any ground to entertain the writ petition for the reason that the land covered in Survey No.418/2 belongs to Highways Department. When the roadside land



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belonging to the Highways Department is encroached by the petitioners, the respondent authorities are entitled to remove such encroachments for widening the road.

5. At this juncture, learned counsel for the petitioners sought some time to vacate the land in question. Since the land in question belongs to Government and the petitioners have encroached upon the said Government land, this Court is not inclined to accede the prayer made by learned counsel for the petitioners.

6. Finding no merit in the writ petition, the same is dismissed. There will be no order as to costs. Consequently, W.M.P.No.4848 of 2023 is closed.

(T.R., ACJ.) (D.B.C., J.)
20.02.2023

Index : No
Neutral Citation : No
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To:

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D.BHARATHA CHAKRAVARTHY, J.

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