



W.P.No.9628 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2023

CORAM :

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

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.9628 of 2023

M.Sumathi

.. Petitioner

Vs

1.The Divisional Engineer,
Highways,
Construction and Maintenance,
Kurangu Chavadi,
Salem-636 004.

2.The Assistant Divisional Engineer,
Highways,
Construction and Maintenance,
Kurangu Chavadi,
Salem-636 004.

3.The District Collector,
Collectorate,
Salem-636 001.

4.The Revenue Tahsildar,
(Land Survey),
Suramangalam,
Salem Taluk,
Salem District.

.. Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the records relating to the impugned notice dated 23.03.2023 issued by the second respondent, quash the same and consequently direct the respondents 3 and 4 to grant patta for the petitioner's property measuring an extent of 510 sq. ft. in T.S.No.49, Block No.19, Ward C, Omalur Main Road, Salem Town, Salem District by considering her representation dated 10.08.2022.

For the Petitioner : Mr.N.Manoharan

For the Respondents : Mr.P.Muthukumar
State Government Pleader
for respondents 1 to 4

ORDER

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

Sumathi, wife of late Manoharan, a resident of 13/11, Pandiyarajan Street, Behind Collector office, Salem, has filed this writ petition challenging the impugned notice dated 23.03.2023 issued by the Additional Divisional Engineer, Highways, Construction and Maintenance, Kurangu Chavadi, Salem, the second respondent herein and to direct respondents 3 and 4 to grant patta for the petitioner's



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property measuring an extent of 510 sq. ft. in T.S. No.49, Block No.19, Ward C, Omalur Main Road, Salem Town.

2. Mr.N.Manoharan, learned counsel appearing for the petitioner, drawing our attention to the sale deed dated 29.4.1994 executed by the Executive Officer and Administrative Officer of Salem Housing Unit of Tamil Nadu Housing Board in favour of the husband of the petitioner, submitted that the petitioner's husband had purchased 510 sq. ft. in T.S.No.49 for a consideration of Rs.15,300/- and after the demise of her husband, the petitioner has become the absolute owner of 510 sq. ft. in T.S.No.49. While being so, the second respondent issued the impugned notice calling upon the petitioner to remove the encroachment made by her in the land belonging to the Highways. Since the land in question is private property of the petitioner, the impugned notice ought not to have been issued by the second respondent and, therefore, the same is liable to be quashed.

3. At this stage, learned State Government Pleader, placing on record the written instructions dated 28.03.2023, submitted that the respondent authorities do not have any grievance over the property



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measuring an extent of 510 sq.ft. allotted by the Tamil Nadu Housing Board in favour of the petitioner's husband. However, the petitioner, going beyond 510 sq. ft., has encroached upon the land up to 11.00 metres length and 1.10 metres breadth totally 12.10 sq. m. and annexed the same to her property abutting Omalur Main Road. Since the petitioner has illegally encroached upon the highway land causing disturbance to the public transportation, the second respondent has issued the impugned notice for eviction. Learned State Government Pleader would submit that on more than five occasions the land has been measured and the petitioner is a rank encroacher and, therefore, she is not entitled to the relief prayed for in the writ petition.

4. We are unable to find any merit in the writ petition, as the petitioner's husband was allotted only 510 sq. ft. in T.S. No.49, Block 19, Ward C, Salem Town within the boundaries stated in the sale deed dated 29.4.1994. The land in excess of 510 sq. ft. in T.S.No.49 shall be treated to be an encroachment and the same shall be removed by the respondent authorities.



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5. With the above observation, the writ petition is dismissed.

There will be no order as to costs. Consequently, W.M.P.No.9681 of 2023 is closed.

(T.R., ACJ.) (D.B.C., J.)
28.03.2023

Index : Yes/No
Neutral Citation : Yes/No
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To:

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Highways,
Construction and Maintenance,
Kurangu Chavadi, Salem-636 004.
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THE HON'BLE ACTING CHIEF JUSTICE
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