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W.P.Nos.26128 of 2023 etc.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2023

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

W.P.Nos.26128, 26201, 26251, 26397, 25950 and 25986 of 2023

W.P.No.26128 of 2023:

R.Mankai

.. Petitioner

Vs

1. The District Collector
Thiruvannamalai District
Thiruvannamalai.
2. The Thasildar
Thiruvannamalai Taluk
Thiruvannamalai District
Thiruvannamalai.
3. The Divisional Engineer
Highways Department
Thiruvannamalai District
Thiruvannamalai.
4. The Assistant Divisional Engineer
Highways Department
Thiruvannamalai District
Thiruvannamalai.



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5. The Assistant Engineer
Highways Department (South Division)
Thiruvannamalai District
Thiruvannamalai.

.. Respondents

and batch cases.

For the Petitioners	: Ms.R.Ananthalakshmi
For the Respondents	: Mr.P.Muthukumar State Government Pleader assisted by Mrs.R.Anitha Spl. Government Pleader

COMMON ORDER

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

We have heard Ms.R.Ananthalakshmi, learned counsel for the petitioners and Mr.P.Muthukumar, learned State Government Pleader, assisted by Mrs.R.Anitha, learned Special Government Pleader, for the respondents.

2. Learned counsel for the petitioners submits that the petitioners are issued with assignment pattas, however notices have been issued by the Highways Department on the ground



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that there are encroachments.

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3. On the last date, in W.P.Nos.25950 and 25986 of 2023, we had asked learned State Government Pleader to take instructions.

4. Today, learned State Government Pleader, on instructions, submits that assignment pattas were wrongly issued to the petitioners. However, the Highways Department has proposed to construct a storm water drain under the Comprehensive Road Infrastructure Development Programme. The land in Survey No.28 in Kilanakkarai Village, Tiruvannamalai Taluk and District, admeasuring 0.77 hectares belongs to the Highways Department and is classified as road.

5. If the assignment pattas are already issued, it cannot be said that there is an encroachment.



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6. Moreover, the impugned notices are issued both under the Tamil Nadu Highways Act, 2001 so also under Section 7 of the Tamil Nadu Land Encroachment Act, 1905. Notices could not have been issued under both the provisions. The Highways Department could not have exercised the jurisdiction under the Act of 1905.

7. In view of the fact that the impugned notices are ambiguous and as it is not disputed that assignment pattas are issued to the petitioners, we quash and set aside the impugned notices.

8. If the respondents want to initiate any action against the petitioners, then the respondents may adhere to the provisions of law and shall issue notice to the petitioners before taking any further action.

The writ petitions are disposed of accordingly. There will be



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no order as to costs. Consequently, W.M.P.No.25519, 25606, 25651, 25813, 25371 and 25404 of 2023 are closed.

(S.V.G., C.J.)

(P.D.A., J.)

11.09.2023

Index : Yes/No
Neutral Citation : Yes/No
sasi

To:

1. The District Collector
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THE HON'BLE CHIEF JUSTICE
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(sasi)

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