



Writ Petition No.33755 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2023

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.33755 of 2022

The Deputy General Manager (Tech)
cum Project Director,
National Highways Authority of India (NHAI),
PIU - Trichy,
New No.6 (Old No.44), First Floor,
III-Mani Road, Ponnagar,
Trichy - 620 001.

... Petitioner

Vs.

- 1.The Superintendent of Police,
Perambalur District.
- 2.The Deputy Superintendent of Police,
Mangalmedu Sub Division,
Perambalur District.
- 3.Inspector of Police,
Mangalmedu Police Station,
Perambalur District.
- 4.Senthilnathan
S/o.Subramanian

... Respondents



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Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 1 to 3 to act upon the representation of the petitioner dated 14.07.2022 and provide adequate police protection to the petitioner to remove the unauthorised occupation of fourth respondent in "Highways Nest (Mini)" belonging to the National Highways Authority of India at Tirumandurai Toll Plaza, Perambalur District, which is maintained by the petitioner, as per section 26(7) of The Control of National Highways (Land and Traffic) Act 2002.

For Petitioner : Mr.N.Manoj Kumar
for Mr.P.Karthick

For Respondents : Mr.A.Gopinath
Government Advocate [Crl.side]
[R1 to R3]
Mr.V.Chinnasamy [R4]

ORDER

This Writ Petition has been filed by National Highways Authority of India (for brevity 'NHAI') for the issuance of a writ of mandamus directing respondents 1 to 3 to act upon the representation dated 14.07.2022 and provide adequate police protection to remove the unauthorized occupation of the fourth respondent.



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2. Heard Mr.N.Manoj Kumar, learned counsel for petitioner, Mr.A.Gopinath, learned Government Advocate [Crl.side] appearing for respondents 1 to 3 and Mr.V.Chinnasamy, learned counsel appearing for fourth respondent.

3. NHAI entered into a Memorandum of Understanding with TANTEA to run mini restaurants at various places and one among them was at Ulundurpet to Padalur Highways (NH-38). In turn, TANTEA entered into an agreement with a private entity and the contract was given in favour of the fourth respondent. The agreement was entered into for a period of two years from 2019 to 2021 and the contract period came to an end on 03.08.2021.

4. NHAI, thereafter, took steps to give the contract in favour of some other person and accordingly, e-tender was called for and it was allotted in favour of one Mr.Rajamani Ramanathan.

5. The grievance of the petitioner is that whenever the successful bidder wants to take possession of the place, the fourth respondent was



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refusing to handover possession and was causing threat. In view of the same, the petitioner gave a representation dated 14.07.2022 to the third respondent seeking for police protection. Since the same was not acted upon, the present Writ Petition has been filed before this Court.

6. It is seen from records that earlier a writ petition was filed in W.P.No.24404 of 2022 by M/s.Trichy Tollway Private Limited seeking for similar relief and this Court disposed of the writ petition by an order dated 28.09.2022 and directed the petitioner therein to furnish all the relevant records and further directed the respondent police to consider the representation and to take action in accordance with law.

7. When the matter came up for hearing on 25.08.2023, this Court directed learned Government Advocate [Crl.side] to take instructions from the respondent police with regard to the earlier direction that was given by this Court in W.P.No.24404 of 2022. Accordingly, the matter was posted for hearing today.



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8. The third respondent has filed counter. The relevant portion is extracted hereunder:

"4. It is submitted that the accordingly to the above said order the petitioner has not provided any documents to the respondent police hence respondent police has not provided police protection.

5. It is further submitted that on 20.12.2022 the respondent police gave letter to the concerned authorized i.e. The Authorized Signatory, Trichy Tollway Private Limited, Trichy in which stating that it "1) Eviction is to be done legally either by Executive Magistrate/RDO (or) by Amina ii) So far, you have not submitted to me, any letter obtained from any one of them (iii) Hence, (a) it is requested to provide a letter from either RDO or Amina and (b) it is further requested that the authority (i) RDO or Amina giving such letter should be present during the eviction."

It is submitted that after obtaining the relevant document from the petitioner further respondent police ready to gave police protection."

9. Learned counsel for fourth respondent submitted that the fourth respondent has instituted some suit against NHAI and therefore, the fourth respondent should not be evicted till the disposal of the case.

10. It is not in dispute that the 'Highways Nest (Mini)' belongs to the petitioner. The contract is given in favour of the highest bidder for a particular period and it is more in the nature of a license. Once the period



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of license expires, the licensee is not entitled to continue occupying the property belonging to NHAI. Section 26(7) of the Control of National Highways (Land and Traffic) Act, 2002, gives a specific power to NHAI to remove unauthorized occupation and it also provides for taking police protection to remove such unauthorized occupation. Therefore, once NHAI approaches the respondent police, there is no need for NHAI to produce any records to the police and the mere request made by NHAI must be acted upon by the respondent police. The removal of the unauthorized occupant is to be done by NHAI and for that purpose, they are seeking for the assistance of the police.

11. In the light of the above discussion, there shall be a direction to the petitioner to give a fresh representation to the third respondent by indicating the date and time for the removal of the unauthorized occupant and on receipt of the same, the third respondent shall provide police protection to ensure that the petitioner takes possession of the property and hands it over to the new bidder to carry on with the business.



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costs.

This Writ Petition is disposed of with the above direction. No

22.09.2023

Speaking Order/Non-speaking Order
Index :Yes/No
Neutral citation: Yes/No
gm

To

- 1.The Superintendent of Police,
Perambalur District.
- 2.The Deputy Superintendent of Police,
Mangalmedu Sub Division,
Perambalur District.
- 3.The Inspector of Police,
Mangalmedu Police Station,
Perambalur District.
- 4.The Public Prosecutor,
Puducherry.



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N.ANAND VENKATESH, J.

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