



WEB COPY

W.P.(MD)No.4583 of 2023



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.03.2023

CORAM:

**THE HON'BLE MR.T.RAJA, THE ACTING CHIEF JUSTICE
and
THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR**

**W.P.(MD)No.4583 of 2023
and
W.M.P.(MD)No.4285 of 2023**

Bommiraja

... Petitioner

-VS-

1.The District Collector,
Dindigul District,
Dindigul.

2.The Project Director, P.I.U.,
National Highways Department of India,
New No.6, Old No.44, 1st Floor-III Main Road,
Ponnagar,
Trichy – 620 001.

3.The Authorized Officer,
National Highways Department of India,
Dindigul District,
Dindigul.

4.The Executive Officer,
Municipality Office,
Ayyalur,
Dindigul District.

5.The Tahsildar,
Vedasanthur Taluk,
Dindigul District.

... Respondents



PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order in NHA1/PD/TRY/NH-83/T-D/2023, dated 23.02.2023, issued by the second respondent, quash the same as illegal and consequently, direct the respondents not to interfere with the petitioner's peaceful possession and enjoyment in respect of a property comprised in Survey No.935/1B7, to an extent of 0.05.54 Hectares (13 ½ Cents), situated at Ayyalur, Vedasanthur Taluk, Dindigul District.

For Petitioner : Mr.T.Palanisamy

For Respondents : Mr.K.Balasubramani
Special Government Pleader

ORDER

**[Order of the Court was made by
The Hon'ble The ACTING CHIEF JUSTICE]**

Mr.Boomiraja, S/o.Lalakrishnan, has filed this Writ Petition challenging the impugned order in NHA1/PD/TRY/NH-83/T-D/2023, dated 23.02.2023, issued by the second respondent, quash the same as illegal with consequential direction to the respondents not to interfere with the petitioner's peaceful possession and enjoyment in respect of a property comprised in Survey No.935/1B7, to an extent of 0.05.54 Hectares (13 ½ Cents), situated at Ayyalur, Vedasanthur Taluk, Dindigul District.



2. Learned counsel appearing for the petitioner would submit that the petitioner is residing at No.52B, Muthunayakkanpatti, Ayyalur, Dindigul District. The petitioner's mother namely, Meenammal, W/o.Lalakrishnan Naidu, has been in possession of the property covered in S.No.935/7, to an extent of 0.05.54 Hectares, situated at Ayyalur, Vedasanthur Taluk, Dindigul District. The petitioner's mother executed a partition deed in favour of all the children in the year 1997, vide Document No.90/1997, dated 03.09.1997. Thereafter, in the year 2010, Dindigul-Chennai National Highways Road project was executed and land acquisition proceedings were initiated. When the National Highways Authority acquired the land, paid compensation of Rs.3,91,732/- to the petitioner's family members for acquiring 456 sq.mt. of land in S.No.935/1B7.

3. Learned counsel would submit that one L.S.Moorthi filed a public interest litigation petition in W.P.(MD)No.22748 of 2022 seeking to remove the encroachment made in Chennai – Dindigul National Highways Service Road, near Ayyalur Village, Vedasanthur Taluk, Dindigul District. The said writ petition was disposed on 28.09.2022, directing the respondents therein to conduct a survey



after issuing notice to the petitioner and all other parties concerned and further direction was issued to take necessary action for removal of encroachment on Chennai – Dindigul National Highways.

4. Learned counsel for the petitioner would further submit that the petitioner filed a suit in O.S.No.251 of 2021, on the file of the Sub-Court, Vedasanthur, Dindigul District, seeking permanent injunction restraining the defendants from interfering with his peaceful possession and enjoyment of the property and the said suit is pending. In the meanwhile, the second respondent issued a notice to the petitioner to remove the unauthorized occupation from National Highways Service Road within 15 days from the date of that notice. The petitioner also sent a reply to the said notice. Since the second respondent failed to consider the said reply, the petitioner has filed W.P.(MD)No.2668 of 2023, wherein, this Court by order dated 09.02.2023, has granted an interim order. Finally, on 14.02.2023, the said Writ Petition was disposed of directing the respondents to consider the petitioner's explanation and pass appropriate orders on merits. In spite of the said order, the respondents have not come forward to consider the case of the petitioner.



5. We are unable to find any merits. The reason is, even the impugned order, dated 23.02.2023, clearly shows that when there was a direction issued by this Court in W.P.(MD)No.2668 of 2023 and W.M.P.(MD)No.2432 of 2023, vide order dated 14.02.2023, to consider the explanation/representation of the petitioner, dated 27.01.2023, the Tahsildar, Vedasanthur, also came into picture and after considering the case of the petitioner, has conducted an inspection and identified the petitioner's unauthorized occupation of highway land measuring an extent of 30 sq.m by construction of building/erection of temporary shed in Survey No.935/1 between km.396/050 & km.396/070 on LHS of Trichy – Dindigul Section of NH 83. The petitioner has not given any representation or complaint alleging that the Tahsildar has failed to survey the land and without there being any grievance indicated with the supporting document to the Tahsildar, the Writ Petition is not maintainable. Therefore, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

[T.R., A.C.J.] [D.K.K., J.]
03.03.2023

NCC : Yes / No
Index : Yes / No
Internet: Yes / No
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To



W.P.(MD)No.4583 of 2021



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Dindigul.
- 2.The Project Director, P.I.U.,
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T.RAJA, A.C.J.
and
D.KRISHNAKUMAR, J.

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ORDER MADE IN
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