



W.P.(MD) No.21383 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.09.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.P.(MD) No.21383 of 2023

and

W.M.P(MD)No.17790 of 2023

Muneeswari

: Petitioner

-vs-

The Assistant Divisional Engineer,
Highways Department,
Virudhunagar,
Virudhunagar District.

: Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the respondent in proceedings in கு.எண்.04/2023/எ, dated 17.08.2023 and quash the same and consequently direct the respondent in interfering with the running of Tea Shop in the land belongs to Sri Maruthur Ayyanar Kovil Trust in T.S.No.460/1 and 460/3 situated in TTK Krishnamachari Road in Ward No.4, Virudhunagar.

For Petitioner : Mr.Ramasamy

For Respondent : Mr.J.K.Jeyaseelan
Government Advocate



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ORDER

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[Order of the Court was made by S.S.SUNDAR, J.]

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus to quash the impugned order dated 17.08.2023 issued by the second respondent and consequently direct the respondent from interfering with the running of Tea Stall and to forbear the respondent from interfering with his business of running Tea Shop in a property in T.S.Nos.460/1 and 460/3 situated in TTK Krishnamachari Road in Ward No.4, Virudhunagar.

2. The case of the writ petitioner is that the respondent has initiated action for removal of encroachment in a property of State Highways in S.No. 462/2 in Narikudi-Parthibanoor Road and passed an order to remove encroachment on or before 13.07.2023. It is seen that a show cause notice was issued to one Sri Maruthur Ayyanaar Kovil Temple represented by its Trustee earlier by the respondent under Section 28(2) of State Highways Act. The petitioner claims tenancy under the temple in respect of the property in T.S.Nos.460/1 and 460/3. Stating that the temple has not come forward to remove the encroachment, by the impugned notice, the respondent has again directed the temple to remove the encroachment. By the impugned order, the respondent informed that the encroachment will be removed, in case the temple does not come forward to remove the same before 30.08.2023. Admittedly, the petitioner has no claim in respect of the



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property measuring to an extent of 31.5 sq.mtr in S.No.462/2. The grievance of the petitioner is that the respondent may interfere with his right as a tenant, which is in respect of the property in T.S.Nos.460/1 and 460/3. The petitioner has no grievance, if the encroachment is removed from the Highways which is in S.No.462/2.

3. In the said circumstances, this Writ petition is closed with an observation that the respondent may proceed to remove encroachment, if the process of removal of encroachment is confined only to the property in S.N.462/2. It is to be noted that the petitioner has obtained lease of some property belong to the temple which is located in T.S.Nos.460/1 and 460/3. It is seen that the portion of the property in T.S.Nos.460/1 and 460/3 has also been acquired for the purpose of formation of road. However, if the encroachment is in respect of T.S.Nos.460/1 or 460/3, it is open to the State Highways to initiate fresh proceedings, if the encroachment is in the public road. No costs. Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.] [D.B.C., J.]
01.09.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
sjj



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S.S.SUNDAR, J.
and
D.BHARATHA CHAKRAVARTHY, J.

sjj

To

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