



W.P.(MD)No.30507 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD)No.30507 of 2023

and

W.M.P.(MD)No.26241 of 2023

Muniappan

Vs.

... Petitioner

1.The Assistant Divisional Engineer,
Highways Construction & Maintenance,
Vedachandur, Ottanchathiram Taluk,
Dindigul District.

2.The Tahsildar,
Ottanchathiram Taluk, Dindigul District.

3.The Head Surveyor,
O/o. Survey Department,
Ottanchathiram Taluk, Dindigul District.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent in his proceedings in Ku.No.06/encroachment/23/U. Dated 05.12.2023 and quash the same as non application of mind and without following procedures contemplated



W.P.(MD)No.30507 of 2023

in the Tamil Nadu Highways Act, 2001 in Survey No.142/1, Puliamarathu Kottai Village, Ottanchathiram Taluk, Dindigul District and consequently, to direct the respondents 2 and 3 to survey the petitioner's property in Survey No.143/4B1, 4B2, situated at Puliamarathu Kottai Village, Ottanchathiram Taluk, Dindigul District.

For Petitioner : Mr.T.Ramasamy

For Respondents : Mr.S.Shanmugavel,

Additional Government Pleader

ORDER

(Order of the Court was made by ***S.M.SUBRAMANIAM, J.***)

The notice issued under Section 28(2)(ii) of the Tamil Nadu Highways Act, 2001, dated 05.12.2023 is sought to be quashed in the present Writ Petition.

2.The learned counsel appearing for the petitioner would submit that the petitioner is armed with civil Court decree of injunction and therefore, the impugned notice is untenable.

3.A perusal of the civil Court decree would indicate that the highways authorities are not parties to the said civil Court proceedings and thus, the decree would not be binding on the authorities. More so, the Tamil Nadu Highways Act, 2001, empowers the authority to conduct survey, identify the encroachment and



W.P.(MD)No.30507 of 2023

remove the same for implementing the road expansion projects or utilise the property for public purposes.

4.In the present case, notice is under challenge and therefore, the petitioner is permitted to submit objections along with documents, if any to the respondents within a period of ten (10) days from today (20.12.2023). On receipt of any such objections, the respondents shall consider the same and thereafter, take a decision, pass orders and proceed with the removal of encroachment, if any identified. The said exercise is directed to be completed within a period of eight weeks from the date of receipt of a copy of this order.

5.With the above observation, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

(S.M.S., J.) & (V.L.N., J.)

20.12.2023

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

Yuva



W.P.(MD)No.30507 of 2023

S.M.SUBRAMANIAM, J.

AND

V.LAKSHMINARAYANAN, J.

Yuva

To

- 1.The Assistant Divisional Engineer,
Highways Construction & Maintenance,
Vedachandur, Ottanchathiram Taluk,
Dindigul District.
- 2.The Tahsildar,
Ottanchathiram Taluk, Dindigul District.
- 3.The Head Surveyor,
O/o. Survey Department,
Ottanchathiram Taluk, Dindigul District.

W.P.(MD)No.30507 of 2023

20.12.2023