



W.P.No.12629 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2024

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

W.P.No.12629 of 2019
and
W.M.P.No.12863 of 2019

M/s.Annai Builders Real Estates Pvt. Ltd.,
rep. by its managing Director
Narayanan Thanushkodi.

... Petitioner

Vs.

1. The Principal Secretary to Government,
Highways Department,
Fort St. George,
Chennai - 600 009.

2. The Chief Engineer,
Highways Department,
Chepauk,
Chennai - 600 005.

3. The District Collector,
Collectorate,
Thiruvallur.



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4. The Special Deputy Collector (LA),
Tamil Nadu Urban Development Project III,
No.15, M.G.Nagar,
Poonamallee,
Chennai - 600 056.

5. The Divisional Engineer,
Highways Department,
J.N. Road, SH-57,
Thiruvallur Uthukottai Road,
Thiruvallur - 602 001.

6. The Asst. Divisional Engineer
Highways Department,
Greater Chennai Development Project,
Chennai - 600 040.

7. M.Mohan,

8. M.Seenivasan,

9. Hotel Zion,
No.598, T.H.Road, Wimco Nagar,
Chennai-600 057.

10. Ganeshan,

11. Sekar,

12. The District Secretary,
CPM Office, No.605,
T.H. Road, Wimco Nagar,
Chennai-600 057.

(R7 to R12 are impleaded as per order dated 13.02.2024 in
WMP.25429/2019 in WP.12629/2019 by SMSJ and KRSJ)

... Respondents



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Prayer :- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents 2,5 and 6 to remove the encroachment made on the highways land in Survey No.115/2, Phase VIII, Block 15 and 16, Ward-C, Thiruvallur, Thiruvallur District within a reasonable time period fixed by this Honourable Court.

For Petitioner : Mr.Richardson Wilson for
M/s.P.Wilson Associates.

For Respondents : Mr.A.Selvendran, Spl.G.P.,
(for R1 to R6);

Mr.R.Krishnaswamy
(for R7, R8 & R10)

ORDER

(Order of the Court was delivered by S.M.Subramaniam J.)

The Writ of Mandamus has been instituted to direct the respondents 2, 3 & 6 to remove the encroachments made in the highways land in Survey No.115/2, Phase VIII, Block 15 and 16, Ward-C, Thiruvallur, Thiruvallur District.

2. The learned counsel appearing on behalf of the writ petitioner mainly contended that the lands acquired from the petitioner for expansion



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of highways is now being under encroachment by individuals and commercial establishments are developed there. Since the land acquired has not been utilised for the purpose for which it was acquired and the authorities have allowed encroachments, the petitioner filed the present writ petition to remove the encroachments for the purpose of public good and for expansion of highways.

3. The learned counsel for the petitioner solicit the attention of this Court with reference to the photographs filed, wherein certain commercial establishments are put up. He referred the revenue records also.

4. The learned Special Government Pleader Mr.A.Selvendran would oppose petitioner's contentions by stating that a portion of the land has been acquired from the petitioner and it is not in dispute. The acquired lands are being maintained, free from encroachments and the authorities have filed an affidavit stating that there is no encroachment in respect of the acquired land from the petitioner.

5. Learned counsel appearing on behalf of the respondents 7, 8, 10 made a submission by stating that the property wherein commercial



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establishments are constructed, originally belonged to Wimco limited and was subsequently purchased by the writ petitioner. In respect of the said portion of the lands, Civil Suits were filed and were dismissed by the Civil Court. Therefore, if at all, the petitioner wants to evict the occupants, he has to approach the competent Civil Court of law in the manner contemplated.

6. Considering the arguments as advanced between the parties to the *lis*, the affidavit filed by the Divisional Engineer (Construction and Maintenance) Highways Department, would clarify the factual possession. Paragraph 10 & 11 of his affidavit reads as under:

“10) The Special Deputy Collector (LA), Tamil Nadu Urban Development Project (4th respondent) submitted his report to the 5th respondent vide letter number R.C.No. 160/2019/A1 dated: 18.07.2019. In this report, the 4th respondent has clearly stated that the land acquired for road widening in survey number 112/2 and 115/2 of Thiruvottiur Town Ward-C, Block - 15 is free from encroachment. The report submitted by the 4th respondent is as follows:

"In obedience of the Hon'ble Madras



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High Court direction, the Special Deputy Collector (LA), TNUDP, Chennai 16 has inspected petitioner's land in S.No.112/2 acquired to an extent of 69sq.mt, out of 3505sq.mt and the land in S.No.115/2 acquired to an extent of 129.5 sq.mt, out of 38985 sq.mt. In the front portion of the S.No. 112/2 belongs to the petitioner's land is still vacant and no encroachment were seen and the entire portion of the S.No. 115/2 belongs to petitioner land some structures like building and shops were seen in the place. These permanent structures were not built on the Highways land. At the time of my inspection, no encroachments were seen either in Highways Land or in acquired land."

11) The writ petition is not maintainable since the land acquired in the survey number 112/2 and 115/2 of Thiruvottriyur Town Ward - C, Block - 15 is free from encroachments."

7. With reference to the details regarding the acquisition also, the above affidavit reveals that the portion of the land alone was acquired



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from the petitioner and it is maintained free from encroachment. Therefore we do not find any reason to consider the relief as such sought for in the present writ petition.

8. Accordingly, the writ petition stand dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(S.M.S.J.,)

(K.R.S.J.,)

15.03.2024

Index : Yes/No

Speaking order/Non-Speaking order

Neutral Citation : Yes/No

(sha)



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To

WEB COPY

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S.M.SUBRAMANIAM, J.

and

K.RAJASEKAR, J.

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