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W.P.No.17749 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2024

CORAM :
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

W.P.No.17749 of 2020

Vijaya Mookim

... Petitioner

Vs.

- 1.The National Highway Authority of India,
Sri Tower, 3rd Floor,
DP-34, Sipcot Industrial Estate,
Guindy,
Chennai – 600 032.
- 2.The Commissioner of Police,
Commissioner Office,
Vepary,
Chennai – 600 007.
- 3.The Inspector of Police,
T-1, Ambattur Police Station,
Ambattur,
Chennai – 600 053.
- 4.The Thasildhar,
Madhavaram Taluk Office,
Madhavaram,
Chennai.



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5.G.Anandan

6.P.Kumarasamy

... Respondents

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Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the 1st and 2nd respondents to remove the encroachment made by the 5th & 6th respondents and their henchmen from the land in S.No.706/2B of No.54, Korrathur Village belongs to the 1st respondent herein.

For Petitioner	: Mr.P.Raghu
For R1	: Mr.SU.Srinivasan Standing Counsel for NHAI
For R2 to R4	: Mr.A.Selvendran Special Government Pleader
For R5	: Mr.V.Rajinikanth
For R6	: Mr.P.S.Kothandaraman

ORDER

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

The relief sought for in the present writ petition is to direct the 1st and 2nd respondents to remove the encroachment made by the 5th & 6th respondents and their henchmen from the land in S.No.706/2B of No.54, Korrathur Village belongs to the 1st respondent herein.



2. With reference to the allegation of encroachment in the National Highways Authority property, the National Highways Authority of India (NHAI) filed a counter affidavit stating as follows:

“3. the 5th respondent had purchased two plots bearing Nos.37 and 38 situated in Somjibai Nagar, Surapattu Village, Ambattur Taluk, Tiruvallur District. As per the documents produced by the writ petitioner in the typed set itself it could be seen that the 5th respondent had purchased Plot No.37 vide Sale Deed dated 30.10.1996 registered in the SRO of Ambattur vide Document No.242 of 1998 having an extent of 2149 sq.ft and purchased Plot No.38 measuring an extent of 2153 sq.ft vide Document No.239 of 1998. The 5th respondent totally had an extent of 4302 sq.ft by way of these two sale deeds.

4. for widening of National Highways, the notification under Section 3A(1) was published in the Gazette of India on 21.02.2006 and after complying other requirements, publication of notification under Section 3(D)1 was published in the Gazette of India on 18.10.2006. ... by this acquisition proceedings 300 sq.mtrs (3,228 sq.ft) were acquired and the compensation of Rs.8,05,860/- was paid to the petitioner. After the acquisition, the petitioner left with 1075 sq.ft of land which is not under acquisition by NHAI.

5. even in the field visit by the revenue officials it was noticed that no encroachment was taken place by the



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5th respondent. It is the writ petitioner who is using the 5th respondent's land as access passage to the service road had come to this Hon'ble Court with false allegation of encroachment. Admittedly, the 5th respondent had given power of attorney to 6th respondent as evidenced by the copy of the power of attorney produced by the writ petitioner in page 39 of the typedset. In the said power of attorney, it was clearly mentioned by the 5th respondent after acquisition is giving the power of attorney to the 6th respondent for the extent of 1075 sq.ft from out of 4302 sq.ft comprising in Plot Nos.37 and 38 which was already acquired by the NHAI."

3. In view of the Counter affidavit filed by the 1st respondent/NHAI, the 5th and 6th respondents have not encroached upon the NHAI property.

4. However, the Counter affidavit filed by the 1st respondent/NHAI reveals that the writ petitioner herself has encroached upon the National Highways property. In this regard, the 1st respondent/NHAI with the assistance of the respondents 2 to 4 are directed to evict the writ petitioner from the encroached portion of National Highways property. The said exercise is directed to be completed within a period of four weeks from the date of receipt of a copy of this order.



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5. Accordingly, this Writ Petition stands **disposed of**. There shall be no order as to costs.

[S.M.S.J.] [K.R.S.J.]
21.03.2024

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
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To

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Order in
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