



WEB COPY

WP.No.17483 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN

THILAKAVADI

W.P.No.17483 of 2024

V.Arumugam
S/o.Vedachalam

... Petitioner

Vs.

1. The Additional Principal Secretary
to Government of Tamil Nadu
Highways Department, Secretariat
Chennai-600 009.
2. The District Collector
Chengalpattu District
Chengalpattu.
3. The Chief Engineer
State Highways Department
HRS Campus, No.76, Sardar Patel Road
Guindy, Chennai-600 035.
4. The Superintendent of Police
Chengalpattu District
Chengalpattu.

Page Nos.1/8



WP.No.17483 of 2024

5. The Thasildar
Thirukazukundram Taluk
Chengalpattu District.
6. The Village Administrative Officer
Suradimangalam Village
Thirukazukundram Taluk
Chengalpattu District.
7. The Inspector of Police (Law and Order)
Thirukazukundram Police Station
Chengalpattu District.
8. P.Muniyandi
S/o.Ponnusamy
9. M.Kali
S/o.Muniyandi
10. M.Ravi
S/o.Mari

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the respondents 1 to 7 to consider the petitioner's representation dated 22.03.2024 and consequently, to direct the respondents 1 to 7 to remove the encroachment encroached by respondents 8 to 10 herein Nerumbur to Kalpakkam Highways at Thirukazukundram Taluk, Chengalpattu District in Survey No.118, New Survey No.431/9.



WEB COPY



WP.No.17483 of 2024

For Petitioner : Mr.S.L.Venkatesan
For Respondents : Mr.P.Balathandayutham
Special Government Pleader
for R1 to R7

ORDER

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

This order will now dispose of the captioned 'Writ Petition' ['WP' for the sake of brevity].

2. Captioned WP pertains to 'land comprised in Old Survey No.118, New Survey No.431/9 situate in Suradimangalam Village, Thirukazukundram Taluk admeasuring 0-0.68 ares or thereabouts' [hereinafter 'said land' for the sake of convenience and clarity].

3. Mr.S.L.Venkatesan, learned counsel for writ petitioner submits that the writ petitioner has been favoured with Natham patta for said land and a copy of the Natham patta dated 07.02.2024 has been placed before us.

4. Though the prayer is not happily worded i.e., needs more clarity and specificity, learned counsel in the hearing submitted that R8 to R10

Page Nos.3/8



WP.No.17483 of 2024

(private respondents) are encroaching upon Highway lands [Nerumbur to Kalpakkam Highway] in Thirukazukundram Taluk, Chengalpattu District as well as said land.

5. Issue notice to official respondents i.e., issue notice regarding admission.

6. Mr. P. Balathandayutham, learned Special Government Pleader accepts notice for Respondents 1 to 7.

7. Learned counsel for writ petitioner submitted that the alleged encroachment that is being made by R8 to R10 has to be necessarily removed.

8. Considering the limited legal perimeter within which the captioned WP has to perambulate, we took up the main WP in the Admission Board with the consent of both sides i.e., learned counsel for writ petitioner and learned State counsel. We are acutely conscious that R8 to R10 (private



WP.No.17483 of 2024

respondents) are not before us but we will be putting in adequate safety valve in this regard infra.

9. As regards the alleged encroachment in said land as writ petitioner has been favoured with Natham patta qua said land, it is for the writ petitioner to approach the jurisdictional Civil Court. Though there is no averments in the writ affidavit about a suit, it comes to light from a legal notice issued by the writ petitioner (notice through a counsel) being notice dated 01.03.2024 that the writ petitioner has already filed a suit in O.S.No.65 of 2023 on the file of District Munsif Court, Thirukazukundram, Chengalpet District arraying R8 to R10 as D1, D2 and D4 respectively and arraying one Mohan as D3. To be noted, Mohan has not been arrayed as a respondent in the captioned writ petition. We went into the official website of the District Court's ECOURT website and it comes to the light that in the said suit, pleadings are complete and it is at framing of issues stage. We also find that the interlocutory applications are pending. It is open to the writ petitioner to pursue the suit and seek reliefs in the Civil Court as regards alleged encroachment in said land. We make it clear that we have not expressed any opinion or view on the merits of the matter and it is for the



WP.No.17483 of 2024

Civil Court to examine the matter on its own merits and in accordance with law untrammelled by this order. This is one safety valve qua private respondents.

10. As regards the further allegation that R8 to R10 have encroached upon the Highways lands [Nerumbur to Kalpakkam Highways], it is open to R3 and/or other officers in the State Highways Department to resort to Section 28, more particularly Section 28(2)(ii) of 'Tamil Nadu Highways Act, 2001 (Tamil Nadu Act 34 of 2002)' [hereinafter 'TN Highways Act' for the sake of convenience] if the allegation is true.

11. As regards alleged encroachment in said lands qua private respondents (R8 to R10) as they are already defendants in the suit and as it is seen that pleadings are complete i.e., qua said suit, the writ petitioner can pursue the remedy before the Civil Court. As regards alleged encroachment in Highways, if action is initiated under Section 28(2)(ii) of TN Highways Act, provision itself provides that noticee be show-caused before action and therefore, obviously R8 to R10 will be show-caused if steps are initiated.



WP.No.17483 of 2024

This is another safety valve qua private respondents.

WEB COPY

12. Learned State counsel submits that steps have been taken for conducting a survey to ascertain if there is any encroachment. In other words, this douses the anxiety of the writ petitioner.

Captioned writ petition disposed of as closed recording the stated position. There shall be no order as to costs.

(M.S.,J.) (K.G.T.,J.)

04.07.2024

Index : Yes / No

Speaking / Non-speaking order

Neutral Citation : Yes / No

gpa



WEB COPY



WP.No.17483 of 2024

M.SUNDAR, J.,
and

K.GOVINDARAJAN THILAKAVADI, J.,

gpa

To

1. The Additional Principal Secretary
to Government of Tamil Nadu
Highways Department, Secretariat
Chennai-600 009.
2. The District Collector
Chengalpattu District
Chengalpattu.
3. The Chief Engineer
State Highways Department
HRS Campus, No.76, Sardar Patel Road
Guindy, Chennai-600 035.
4. The Superintendent of Police
Chengalpattu District
Chengalpattu.
5. The Thasildar
Thirukazukundram Taluk
Chengalpattu District.
6. The Village Administrative Officer
Suradimangalam Village
Thirukazukundram Taluk
Chengalpattu District.
7. The Inspector of Police (Law and Order)
Thirukazukundram Police Station
Chengalpattu District.

W.P.No.17483 of 2024

04.07.2024