



WEB COPY

WP No.35130 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14-02-2024

CORAM

**THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM
And
THE HONOURABLE MR. JUSTICE K.RAJASEKAR**

WP No.35130 of 2019

1.B.Abdul Vayath (died)
2.Faiyaz Ahamed
3.Reshma Begam
[Petitioners 2 and impleaded as LR's of the
deceased first petitioner vide order of
Court dated 14.02.2024 made in
WMP No.25296 of 2021 in
WP No.35130 of 2019]

.. Petitioners

-VS-

1.The Project Director,
Tamil Nadu Road Development Project-II,
TNMB Building, First floor,
No.171, South Kesavaperumalpuram,
Greenways Road,
Raja Annamalaipuram,
Chennai-600 028.



2.The Superintending Engineer,
Tamil Nadu Road Development Project-II,
No.171, South Kesavaperumalpuram,
Greenways Road,
Raja Annamalaipuram,
Chennai-600 028.

3.The Divisional Engineer (Highways),
Tamil Nadu Road Development Project-II,
Kancheepuram.

4.The District Collector,
Office of the District Collector,
Villupuram.

5.The Special Tahsildar (LA),
Tamil Nadu Road Development Project-II,
Campus of the Office of the
Revenue Divisional Officer,
Tiruvannamalai.

6.The Tahsildar,
Office of the Tahsildar,
Gingee.

7.Munusamy (a) Karvannan

8.Kanagamani

9.Devakadatcham

.. Respondents



Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents 1 to 6 to remove the encroachment on the basis of the representation dated 16.11.2019.

For Petitioners : Ms.S.Sasikala

For Respondents-1 to 6 : Mr.A.Selvendran,
Special Government Pleader.

For Respondents-7 to 9 : Ms.M.B.Prabhu Sudha

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 respondents 1 to 6 to remove the encroachments on the basis of the representation submitted by the deceased first petitioner on 16.11.2019.

2. Mr.A.Selvendran, learned Special Government Pleader appearing on behalf of the respondents 1 to 6, would contend that encroachments in the adjacent lands were already removed. However, the said statement of the learned Special Government Pleader, appearing on



behalf of the respondents 1 to 6, is objected by the learned counsel appearing on behalf of the petitioners.

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3. The counter filed by the Divisional Engineer would reveal that civil suits in OS Nos.29 and 48 of 2018 have been instituted on the file of the Principal District Court, Gingee.

4. Institution of a civil suit or an interim order, if any, is not a bar to evict the encroachers by the Government by following the procedures contemplated under Land Encroachments Act or other relevant Acts. Therefore, the contention of the respondents that the civil suit is pending need not be considered and the Authorities are bound to evict the encroachers under the Statutes.

4(a). In the context of institution or pending of a Civil Suit, Section 63 of the Tamil Nadu Highways Act, 2001, stipulates:

“Bar of certain proceedings. ---

(1) No suit or other legal proceedings shall lie against the Government of anything which is in good faith done or intended to be



done by or under this Act.

(2) (a) No suit, prosecution or other proceedings shall lie against the State Highways Authority or any Highways Authority, or officer or person for anything done or intended to be done under this Act, without the previous sanction of the Government, and such suit, prosecution or proceeding shall be filed within thirty days from the date of the act complained of.

(b) No such authority or officer or person shall be liable in respect of any such act in any civil or criminal proceedings, if the act was done in good faith in the course of the execution of the duties or the discharge of the functions assigned to such authority or officer or person by or under this Act.”

4(b). In view of an express Bar under Section 63, the suit instituted against the actions of the Government for removal of encroachments in Highways properties cannot be a bar and the authorities competent are empowered to evict the encroachers and protect the Highways property for public good and to develop National Highways projects.



5. Since the encroachments in the adjacent lands had been already evicted and that being the factum established, the respondents 1 to 6 are directed to remove the encroachments in that locality by following the procedures, by issuing notices and by affording opportunity to all the encroachers. The said exercise is directed to be completed, within a period of twelve weeks from the date of receipt of a copy of this order.

6. With the above directions, the present writ petition stands disposed of. However, there shall be no order as to costs.

(S.M.SUBRAMANIAM,J.)

(K.RAJASEKAR,J.)

14-02-2024

Index : Yes/No

Internet: Yes/No

Speaking order/Non-Speaking order

Neutral Citation : Yes/No

Svn/Sha



To

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