



W.P.(MD) No.4282 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.4282 of 2024

and

W.M.P(MD)No.4116 of 2024

K.Santhirasekar

... Petitioner

Vs.

1. The Divisional Engineer
State Highways Construction and Maintenance,
Trichy Division, Trichy - 20.
2. The Assistant Executive Engineer,
State Highways Construction and
Maintenance, Lalgudi, Trichy.
3. The Assistant Engineer
State Highways Construction and Maintenance,
Manachanallur, Trichy.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus restraining the respondents in any way disturbing the petitioner in running the tea shop in the name of Pupi Cool Drinks in light of the orders passed CMP (MD) No.598/2018 in AS No.16/2018 on the file of Madurai Bench of Madras High Court.



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For Petitioner :Mr.S.Ramsundarvijayraj
For Respondents :Mr.S.P.Maharajan,
Special Government Pleader

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

The petitioner has filed this writ petition seeking for issuance of a Writ of Mandamus restraining the respondents in any way disturbing the petitioner in running the tea shop in the name of Pupi Cool Drinks in light of the orders passed CMP (MD) No.598/2018 in AS No.16/2018.

2. According to the petitioner, he is running the a Cook Drinks Shop in the property in question. Earlier, the suit in O.S.No.126 of 2013 before the II Additional District Judge, Trichy, was filed by the Joint Commissioner, Arulmigu Samayapuram Mariamman Temple, S.Kannanur, Mannachanallur Taluk, against the petitioner and one Muthaiah Pillai, seeking to vacate and surrender the vacant possession of the property. The said suit was decreed in favour of the temple. Challenging the same, the petitioner has filed an appeal suit before this Court in A.S(MD)No.16 of 2018 and the same is pending. Thus, according to the petitioner, in view of the pendency of the



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appeal suit, the respondents shall not disturb the possession of the petitioner. Hence, the petitioner has filed this writ petition with the aforesaid prayer.

3. We have carefully considered the submissions made on either side and perused the materials placed before this Court.

4. In the typed set of papers, the petitioner has enclosed the notice issued by the Assistant Divisional Engineer, State Highways Construction and Maintenance, Lalgudi, Trichy, dated 09.02.2024, informing the petitioner to submit his objections within three days, failing which, action will be taken for removal of encroachment. However, it is seen that without filing his explanation/objections for the aforesaid show-cause notice, the petitioner has filed this writ petition by narrating the fact that the appeal suit is pending before this Court in A.S(MD)No.16 of 2018.

5. However, it is seen that the appeal suit is filed in respect of New S.F.No.105/2A measuring an extent of 0.89.0 Hec. and New S.F.No.105/2B measuring an extent of 0.68.5 Hec., at S.Kannanur Village, whereas the show cause notice, dated 09.02.2024, was issued



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in respect of State Highways road at Maruthur -Samayapuram at KM 0/0-1/2, which is classified as Government Poramboke Road. Further, despite the said notice has been served, the petitioner has not challenged the said notice in the writ petition, but sought for a blanket prayer.

6. We are of the view that such a blanket prayer as sought for by the petitioner cannot be granted and therefore, the writ petition is liable to be rejected on the aforesaid grounds.

7. At this juncture, the learned counsel appearing for the petitioner seeks time for vacating the premises and undertakes to file an affidavit to that effect before this Court.

8. If any such undertaking affidavit filed seeking time to vacate the premises, the respondents shall not disturb the possession of the petitioner.

9. It is made clear that the undertaking affidavit should be filed by the petitioner on 29.02.2024 and the petitioner shall vacate and hand over possession on or before 30.03.2024, failing which this order



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will not stand in the way of the respondents from taking steps to remove the encroachments.

10. With the above directions, this writ petition stands disposed of. No Costs. Consequently, connected Miscellaneous Petition is closed.

[D.K.K., J.]

[R.V., J.]

28.02.2024

Neutral Citation: Yes / No
Index : Yes / No

PM

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and
R.VIJAYAKUMAR, J.

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