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W.P.(MD) No.247 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.02.2024

CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

W.P.(MD) No.247 of 2018

and

W.M.P.(MD) Nos.255 & 256 of 2018 & 16640 of 2019

Vijaya

... Petitioner

-VS-

1.The District Collector
Dindigul District
Dindigul

2.The Tahsildar
Kodaikanal
Dindigul District

3.The Assistant Divisional Engineer (Highways)
Office, Construction and Maintenance
Kodaikanal, Dindigul District

4.The Special Officer
Mannavanur Panchayat
Kodaikanal, Dindigul District

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the entire records pertaining to the impugned order in Na.Ka.No.92/2017/A1, dated 28.12.2017, issued by the third respondent in respect of petitioner's patta land in S.No.1017/1 in Mannavanur Village, Kodaikanal, Dindigul District and quash the same as illegal.

For Petitioner : Mr.V.B.Sundhareshwar

For Respondents : Mr.N.Satheesh Kumar
Additional Government Pleader for R1 to R3

ORDER

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

Prayer in this writ petition is to quash the order dated 28.12.2017, passed by the third respondent, under Section 28(2)(i) & (ii) of the Tamil Nadu Highways Act, 2001, directing the petitioner's husband Saravanan to remove encroachments made by him in Survey No.1018 of Mannavanur Village, within a period of seven days from the date of receipt of the said order.



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2. Learned Additional Government Pleader appearing for the respondent 1 to 3, on instructions submitted that the land in Survey No.1018 belongs to the Highways Department. The petitioner claims right only in respect of the land in Survey No.1017, for which the Highways Department has no grievance at all. If the petitioner put up any construction by encroaching the Highways' land in Survey No.1018, after conducting a re-survey, necessary steps will be taken for removal of the encroachment in the Highways' land. To that effect, he has also produced a copy of the communication dated 14.02.2024 received from the third respondent, before this Court.

3. In view of the above, we are inclined to issue the following directions:

- (i) The Tahsildar / second respondent shall survey the subject land in the presence of the petitioner as well as the Highways Department / third respondent and demarcate the boundaries of the subject land.



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- (ii) Thereafter, if the petitioner is found to have made any encroachment in the Highways land, she herself shall remove the encroachment forthwith at her own cost. Otherwise, the authority concerned shall remove the same in accordance with law, without issuing any further notice to the petitioner.
- (iii) Such an exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

4. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

[D.K.K., J.]

[R.V., J.]

22.02.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To:

- 1.The District Collector,
Dindigul District,
Dindigul.
- 2.The Tahsildar,
Kodaikanal,
Dindigul District.
- 3.The Assistant Divisional Engineer (Highways),
Office, Construction and Maintenance,
Kodaikanal, Dindigul District.



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