



W.P(MD)No.21606 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.10.2024

CORAM :

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MR.JUSTICE SUNDER MOHAN**

W.P(MD)No.21606 of 2022

A.Peraiah

... Petitioner

vs.

1. The District Collector,
Collectorate,
Tuticorin District-628 101.

2. The Revenue Divisional Officer,
Kovilpatti,
Tuticorin District-628 501.

3. The Tahsildar
Ottapidaram Taluk,
Tuticorin District-628 401.

4. The Block Development Officer,
Ottapidaram Taluk,
Tuticorin District-628 401.

5. The President,
Puthiyamputhoor Village Panchayat,
Ottapidaram Taluk,
Tuticorin District-628 401.

6. The Director General,
Department of Highways,
76, Sardar Patel Road,
Guindy,
Chennai-600 025.



W.P(MD)No.21606 of 2022

7. The Divisional Engineer,
Highways Department (C & H),
4/1A, Ettayapuram Road,
Tuticorin-628 001.

8. The Assistant Divisional Engineer,
Highways Department (C & H),
Ottapidaram,
Tuticorin-628 722.

9. T.Yovan Kalai Selvan

10. T.Jeyakumari

11. D.Sudhagar

12. M.D.Muthu Kumar

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 3rd respondent herein to remove the 9 to 12th respondents encroachment and other encroachment made in the common path of Survey No.25/11, Puthiyamputhoor Village, Ottapidaram Taluk, Tuticorin District and also direct the 6 to 8th respondents take proper action based on the petitioner's representation dated 29.08.2022 within the time fixed by this Court.

For Petitioner	: Mr.G.Sakthi Rao
For R1 to R3, R6 & R8	: Mr.P.Thilakkumar, Government Pleader
For R4 & R5	: Mr.S.P.Maharajan Special Government Pleader
For R9	: Mr.N.Dilipkumar
For R10	: Mr.S.Muthumalairaja
For R11	: Mr.P.Samuel Gunasingh
For R12	: Mr.V.Chandra Pandi



ORDER

(Order of the Court was made by **R.SUBRAMANIAN, J.**)

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The prayer is for removal of encroachment in Survey No.25/11 of Puthiyamputhoor Village, Ottapidaram Taluk, Tuticorin District.

2. The learned Government Pleader appearing for the respondents 1 to 3, 6 and 8, upon instructions, would submit that the 10th respondent in the writ petition has filed a suit for declaration and permanent injunction and has obtained an *ex parte* decree. Aggrieved, the Government has filed appeal in A.S.No.16 of 2020 which is stated to be pending.

3. It is admitted that the said survey number has been classified as road margin. Therefore, any construction put up thereon has to be necessarily an encroachment. No doubt, the 10th respondent has been favoured with a decree by the Civil Court. Therefore, no action can be taken against the 10th respondent. However, there is no bar for taking action for removal of encroachment, if any, made by the respondents 9, 11 and 12.

4. In the light of the above, there will be a direction to the respondents 1 to 8 to take action against the respondents 9, 11 and 12 to remove the encroachment made by them. Action shall be initiated within a period of twelve weeks from the date of receipt of a copy of this order.



W.P(MD)No.21606 of 2----

5. The Writ Petition is disposed of accordingly. No costs.

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(R.S.M, J.) (S.M, J.)
22.10.2024

Index : Yes / No
Neutral Citation : Yes / No
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ORDER MADE IN
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