



W.P.No.3976 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**

and

THE HONOURABLE MRS.JUSTICE **K.GOVINDARAJAN THILAKAVADI**

W.P.No.3976 of 2025

Mohandas

... Petitioner

Vs.

1.The District Collector,
Namakkal District, Namakkal.

2.The Divisional Engineer,
Highways (Construction and Maintenance)
Department, Namakkal District,
Namakkal.

3.The Tahsildar,
Senthamangalam Taluk,
Namakkal District.

4.The Assistant Engineer,
Highways (Construction and Maintenance)
Department,
Senthamangalam Taluk,
Namakkal District.

5.The Inspector of Police,
Erumapalayam Police Station,
Namakkal District.

6.Manikkam

7.Anandan

... Respondents

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Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus directing the fourth respondent to remove the encroachment made in the land comprised in Survey No.74 situate at Pavithram Village, Senthamangalam Taluk, Namakkal District, made by the respondents 6 and 7, in pursuance of the communication sent by the fourth respondent to the fifth respondent dated 28.11.2024 in Na.Ka.No.27/U.Poo., within stipulated time.

For Petitioner : Mr.C.Prabakaran

For Respondents : Mr.M.S.Arasakumar,
Government Advocate
for R1 to R5

ORDER

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

Captioned main 'Writ Petition' (hereinafter 'WP' for the sake of brevity) pertains to alleged encroachment in 'Survey No.74 - 0.6 km in Pavithram, Navaladipatti, Pavithrampudur Road within Senthamangalam Highways Sub Division, Namakkal Division' (hereinafter 'said land' for the sake of convenience and clarity).

2. Mr.C.Prabakaran, learned counsel on record for writ petitioner submits that R4 (The Assistant Engineer, Highways (Construction and



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Maintenance) Department, Senthamangalam Taluk, Namakkal District) has written a communication to R5 (The Inspector of Police, Erumapalayam Police Station, Namakkal District). In this communication dated 09.12.2024 bearing reference Na.Ka.No.26/AE, R4 has mentioned that 12.12.2024 has been fixed as the date for removal of encroachment and requested for police protection but nothing has happened until today, that has necessitated captioned main WP, is learned counsel's say.

3. Issue notice to official respondents.

4. Mr.M.S.Arasakumar, learned Government Advocate accepts notice for R1 to R5 and submits on instructions that the private respondents and alleged encroachers were issued show cause notices under Section 28(2)(ii) of 'The Tamil Nadu Highways Act, 2001' (hereinafter 'TN Highways Act' for the sake of convenience and clarity), the noticees have replied saying that there is UDR error and R4 has to now pass final orders after considering the representation/response of the noticees/alleged encroachers. To be noted, this is the procedure prescribed under TN Highways Act and such procedure ensures that alleged encroachers are given an

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opportunity by being show caused and their responses are considered by way of an order to be made by the officer concerned. In this case, the officer concerned is R4 as what we are informed.

5. Learned State counsel submits that R4 will now pass orders under proviso to Section 28(2)(ii) of TN Highways Act within three weeks from today i.e., on or before 27.02.2025. Let the needful be done. Let such orders be duly served on the noticees/alleged encroachers as well as the writ petitioner within five working days from the date of the order.

6. Though obvious we make it clear that removal of encroachment or otherwise will be subject to/depending on orders to be made by R4 under proviso to Section 28(2)(ii) of TN Highways Act. We also make it clear that the rights and contentions of all the parties concerned to assail the orders, if it is adverse to any of them, are preserved. We also make it clear that R4 will now consider the responses of noticees on its own merits and in accordance with law untrammelled by this order. This puts in a safety valve qua private respondents (R6 and R7).



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7. Considering the limited scope of the captioned main WP, main WP is taken up in the Admission Board with the consent of learned counsel on both sides.

8. We dispose of the main WP by writing that further action, if any, will be subject to/depending on orders to be made by R4 vide proviso to Section 28(2)(ii) of TN Highways Act.

9. Captioned main WP is disposed of in the aforesaid manner.
There shall be no order as to costs.

(M.S.,J.) (K.G.T.,J.)
06.02.2025

Index : Yes / No
Neutral Citation : Yes / No
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To

1.The District Collector,
Namakkal District,
Namakkal.

2.The Divisional Engineer,

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Highways (Construction and Maintenance)
Department, Namakkal District,
Namakkal.

- 3.The Tahsildar,
Senthamangalam Taluk,
Namakkal District.
- 4.The Assistant Engineer,
Highways (Construction and Maintenance)
Department,
Senthamangalam Taluk,
Namakkal District.
- 5.The Inspector of Police,
Erumapalayam Police Station
Namakkal District.

**M.SUNDAR, J.,
and**



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