



W.P.No.8333 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 11.03.2025

CORAM

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

and

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

W.P.No.8333 of 2025

&

W.M.P.No.9342 of 2025

in W.P.No.8333 of 2025

Shanthi

W/o.Tamilvannan

... Petitioner

VS.

1. The Secretary
Highways Department
Government of Tamil Nadu
Fort St.George
Chennai - 600 009
2. The District Collector
Kanchipuram District
Kanchipuram - 631 502
3. The Divisional Engineer
State Highways Department
Salai Street
Kanchipuram - 631 502
4. The Assistant Divisional Engineer
State Highways Department
Jawaharlal Street

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5. Mr.Sudhakar
S/o.Sampath

6. Mr.Venkatesan
S/o.Arumugam

... Respondents

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 by the fifth respondent in S.No.935 of Thamal Village, Kanchipuram Taluk, Kanchipuram District pursuant to letter dated 26.09.2024.

For Petitioner : Mr.R.Rajeshkrishnan

For Respondents : Mr.T.K.Saravanan
Addl. Govt. Pleader for R1 to R4

ORDER

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

Subject matter of captioned main 'Writ Petition' ['WP' for the sake of brevity] is 'land comprised in S.No.935, Thamal-Aa Village, Kanchipuram Taluk, Kanchipuram District' [hereinafter 'said land' for the sake of brevity and convenience].

2. Learned counsel for writ petitioner submits that the writ petitioner owns 'land admeasuring 65 cents or thereabouts in Old S.No.560/2 (Nanja),



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New S.Nos.560/2A1 and S.No.560/2A2 in Thamal-Aa Village,
Kanchipuram Taluk, Kanchipuram District' [hereinafter writ petitioner's
property for the sake of convenience].

3. Learned counsel for writ petitioner submits that said land is pathway vested in the Government and it is a State Highway. It is further submitted that private respondents (R5 and R6) have encroached upon said land obstructing access to writ petitioner's property. Representations have not yielded result and that has necessitated the captioned main WP is learned counsel's say.

4. Issue notice to official respondents.

5. Mr.T.K.Saravanan, learned Additional Government Pleader accepts notice for R1 to R4 and submits, on instructions, that a survey of said land is in the anvil and post survey, if any encroachment is found, suitable action under 'Tamil Nadu Highways Act, 2001 (Tamil Nadu Act 34 of 2002)' {hereinafter 'State Highways Act' for the sake of brevity} would be initiated.

6. In the light of the stated position of the learned State counsel, the scope of the captioned main WP has narrowed down considerably. Be that as it may, initiating action under means private respondents (R5 and R6)



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have to be show-caused. To be noted, any other alleged encroacher also should be show-caused and given an opportunity. This vide Section 28(2)(ii) of State Highways Act . We make it clear that private respondents (R5 and R6) and/ or any other noticee can respond when show-caused and for this purpose, all questions qua alleged encroachment are left open. This means that we are not passing any orders touching upon rights of private respondents much less adverse to private respondents and on the contrary, we are preserving all the rights and contentions of private respondents and/or any other alleged encroacher/s. In this scenario, there is no impediment in taking up the main WP in the Admission Board with the consent of learned counsel for writ petitioner and learned State counsel dispensing with notice to private respondents R5 and R6. We take up the main WP in the Admission Board with the consent of learned counsel for writ petitioner and learned State counsel.

7. Learned State counsel submits that survey qua said land will be completed as expeditiously as the business of official respondents would permit but in any event within three weeks from today i.e., on or before 01.04.2025. This submission is recorded. Survey shall be conducted after



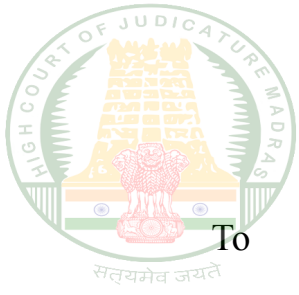
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putting on notice the writ petitioner as well as R5 and R6. A survey report shall be drawn up, in the survey report if any encroachment is found, appropriate action under State Highways Act shall be initiated within a fortnight therefrom i.e., on or before 15.04.2025. As already alluded to supra, the rights and contentions of noticees are preserved if action is initiated.

Captioned WP disposed of in the aforesaid manner. Consequently, captioned WMP thereat is also disposed of as closed. There shall be no order as to costs.

(M.S.,J.) (K.G.T.,J.)
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Index : Yes/No
Neutral Citation : Yes/No
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