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W.P.No.24984 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2025

CORAM

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

and

THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

W.P.No.24984 of 2025

and

W.M.P. No.28154 of 2025 in W.P. No.24984 of 2025

N.Dhanasekar

... Petitioner

Vs.

1.The District Collector,
Collectorate, Villupuram,
Villupuram District.

2.The Tahsildar,
Taluk Office, Melmalaiyanur Taluk,
Villupuram District.

3.The Superintending Engineer (Highways),
Tamil Nadu Road Development Scheme II,
Greenways Road, Raja Annamalaipuram,
Chennai – 600 028.

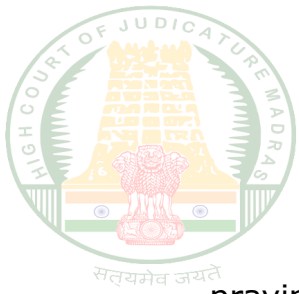
4.The Divisional Engineer (Highways),
Tamil Nadu Road Development Scheme II,
No.57, Salai Street,
Kanchipuram – 631 502.

5.The Assistant Divisional Engineers (Highways),
SH-4, Gingee Villupuram Road,
Gingee, Villupuram – 604 202.

6. Ramalingam

... Respondents

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Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records and quash the show cause notice vide Ka.No.56/Eva.A dated 10.06.2025 passed by the fifth respondent consequently direct the fifth respondent not to take any coercive steps against the petitioner's house building comprised in S.No.275/18 measuring an extent of 0.0074 Ares bearing Patta No.193 situated at Kannalam Village, Valathi, Melmalaiyanur Taluk, Villupuram District without conducting proper survey with the help of District Surveyor.

For Petitioner : Mr.G.Saravanabhavan

For Respondents : Mr.T.K.Saravanan,
Additional Government Pleader
for R1 to R5

ORDER

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

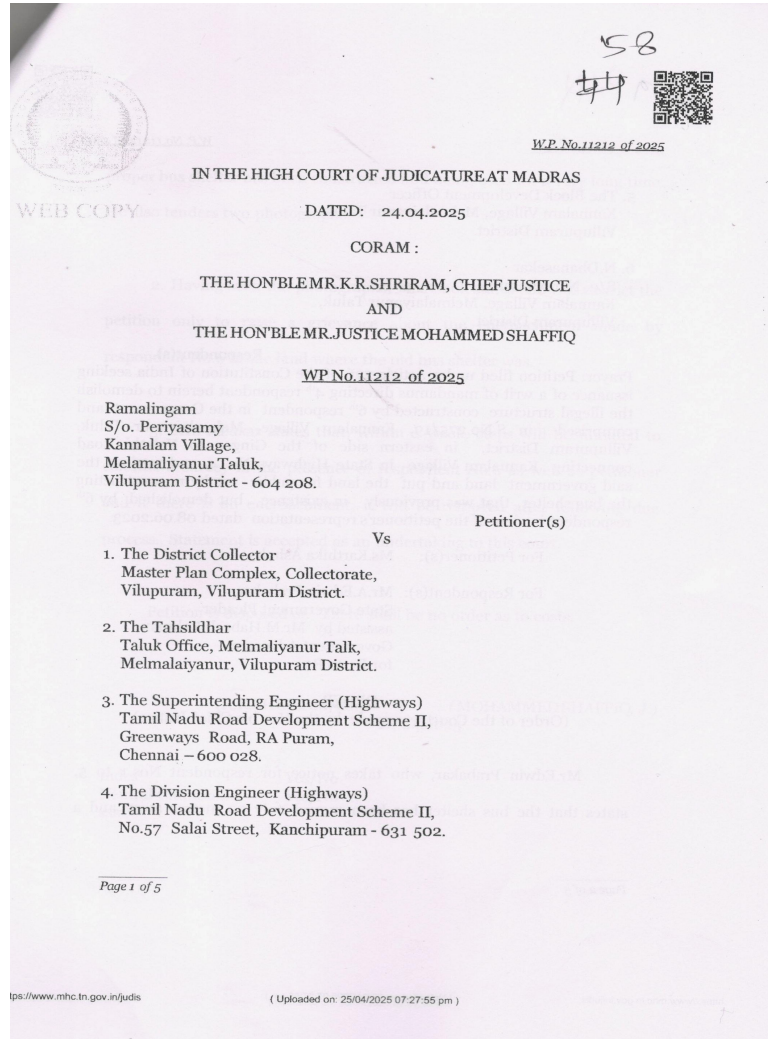
Subject matter of captioned main 'Writ Petition' (hereinafter 'WP' for the sake of brevity) is a 'land comprised in Survey No.275/19 in No.44, Kannalam Village, earlier Gingee Taluk (now Melmalaiyanur Taluk), South Arcot District' (hereinafter 'said land' for the sake of convenience and clarity).

2. R6 [Mr.Ramalingam, S/o.Mr.Periyasamy] / private respondent before us had earlier filed a writ petition being W.P.No.11212 of 2025



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with a RoE (Removal of Encroachment) prayer qua said land. In this writ petition, writ petitioner herein has been arrayed as R6 and another Hon'ble Division Bench disposed of this W.P.No.11212 of 2025 in and by an order dated 24.04.2025 and a scanned reproduction of this order is as follows:





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W.P. No.11212 of 2025

5. The Block Development Officer
Kannalam Village, Melmalaiyanur Taluk,
Villupuram District.

6. N.Dhanasekar
S/o. Narayansamy,
Kannalam Village, Melmalaiyanur Taluk,
Villupuram District.

Respondent(s)

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing 4th respondent herein to demolish the illegal structure constructed by 6th respondent in the Government land comprised in S.No.275/19, Kannalam Village, Melmalaiyanur Taluk, Villupuram District, in eastern side of the Gingee to Valathi Road connecting Kannalam Village in State Highways No. 4, and retrieve the said government land and put the land for public use by re-constructing the bus shelter that was previously in existence but demolished by 6th respondent in view of the petitioner's representation dated 08.06.2023.

For Petitioner(s): Ms.Karthika Ashok

For Respondent(s): Mr.A.Edwin Prabakar,
State Government Pleader
assisted by Mr.M.Habeeb Rahman,
Government Advocate
for R1 to R5

ORDER
(Order of the Court was made by the Hon'ble Chief Justice)

Mr.Edwin Prabakar, who takes notice for respondent Nos.1 to 5,
states that the bus shelter has been moved only 50 metres away and a

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proper bus shelter has been constructed and being used for a very long time.

He also tenders two photographs.

2. Having seen the photographs, Ms.Ashok states she will restrict the petition only to raise a grievance about the encroachment made by respondent No.6 in the land where the old bus shelter was.

3. Mr.Prabakar states that, within a week, steps will be initiated to conduct a survey in the presence of respondent No.6 as well as petitioner and if there is an encroachment, it will be removed after following due process. Statement is accepted as an undertaking to this court.

Petition is disposed of. There shall be no order as to costs.

(K.R.SHRIRAM, C.J.) (MOHAMMED SHAFFIQ J.)
24.04.2025

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Neutral Citation : Yes/No
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3. Thereafter, writ petitioner was visited with a 'notice captioned 'Show Cause Notice' (SCN) from R5 (Assistant Divisional Engineers (Highways), SH-4, Gingee Villupuram Road, Gingee, Villupuram – 604 202) bearing reference Ka.No.56/Eva.A' which shall hereinafter be referred to as 'impugned notice' for the sake of convenience and clarity.

4. Learned counsel for writ petitioner submits that the impugned notice though captioned Show Cause Notice is not happily worded, however, this is not the issue before us. Learned counsel submits that the writ petitioner/noticee has complied with the impugned notice and has removed the encroachment, which according to him, is a tin shed and concrete steps. Notwithstanding compliance, the writ petitioner is under threat of dispossession/demolition qua his construction in 'patta land being land comprised in Survey No.275/18' (hereinafter 'said patta land' for the sake of convenience and clarity) is learned counsel's further say.

5. Issue notice to official respondents.

6. Mr.T.K.Saravanan, learned Additional Government Pleader accepts notice for R1 to R5. Learned State counsel submits that the



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writ petitioner did comply qua impugned notice of R5 but it is not complete compliance, that some more superstructure inter-alia in the form of a wall remains to be removed is his say.

7. Learned counsel for writ petitioner contends to the contrary and reiterates the submission captured supra. Learned counsel for writ petitioner adds that survey qua said land and said patta land had been conducted three times earlier, the writ petitioner was present on all three occasions but marking of the boundaries made pursuant to the survey was not correct. It is submitted that writ petitioner was not favoured with any survey report.

8. In the light of aforereferred backdrop, we are of the considered view that the captioned WP can be disposed of by an order which does not impact the rights and contentions of private respondent/R6, on the contrary, all the rights and contentions of private respondent/R6 will remain preserved. In this view of the matter, we dispense with notice to R6 and take up the main WP with the consent of learned counsel for writ petitioner and learned State counsel.



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9. In the light of the narrative thus far, the following order is made:

9.1 Impugned notice is neither dislodged nor sustained but the same being translated into action at ground will depend on survey to ensue about which there will be allusion infra;

9.2 R2, with the aid and assistance of jurisdictional surveyor and supervision of R1, shall now conduct survey after putting on notice the writ petitioner, R6 and/or any other person concerned with the matter;

9.3 All such persons put on notice shall be entitled to be present throughout the survey without disrupting the proceedings. To be noted, this survey will be as regards said land (Survey No.275/19) as well as said patta land (Survey No.275/18);



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9.4 R2 shall draw up a survey report clearly demarcating said land, said patta land and also mentioning whether there is any encroachment in said land. This report shall be placed before R1 for approval;

9.5 Post approval of R1, the survey report to be drawn up by R2 in the aforesaid manner shall be furnished to the writ petitioner within seven working days from the date of approval by R1;

9.6 All rights and contentions of the writ petitioner, R6 and any other person concerned qua survey report will stand preserved;

9.7 If encroachment in said land is found in the survey report, the impugned notice will be implemented. Until then, coercive action (if any and if that be so) qua said land qua writ petitioner will be put on hold.



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10. Captioned WP is disposed of in the aforesaid manner. In the light of our order qua coercive action, captioned Writ Miscellaneous Petition (WMP) has become otiose and the same is disposed of as closed. There shall be no order as to costs.

(M.S.,J.)

(H.C.J.)

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Index : Yes / No

Neutral Citation : Yes / No

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To

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**M.SUNDAR, J.,
and
HEMANT CHANDANGOUDAR, J.,**
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