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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2025

CORAM

THE HON'BLE MR JUSTICE M. SUNDAR

AND

THE HON'BLE MR.JUSTICE T. VINOD KUMAR

WP No. 29544 of 2025

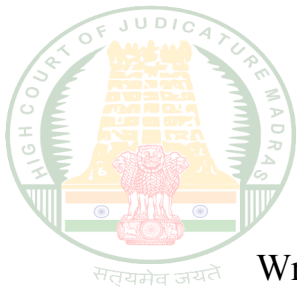
Sudhakar
S/o.Sampath

... 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
Kanchipuram - 631 502.
5. Shanthi
W/o.Tamilvannan

... Respondents



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Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Mandamus, directing the respondents to consider the petitioner's representation dated 30.07.2025.

For Petitioner: Mr.K.Ashok Kumar
along with Mr.B.Manivannan

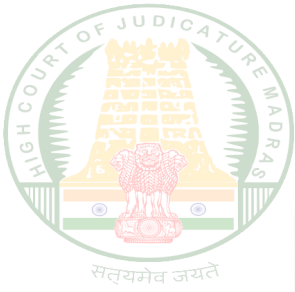
For Respondent(s): Mr.T.K.Saravanan
Additional Government Pleader
for R1 to R4

ORDER

(Order of the Court was made by M.Sundar J.)

Captioned main 'Writ Petition' {hereinafter 'WP' for the sake of brevity, convenience and clarity} has been filed with a prayer to issue a writ of mandamus qua official respondents (R1 to R4) and it is predicated on 'writ petitioner's representation dated 30.07.2025' {hereinafter 'said representation' for the sake of brevity, convenience and clarity}.

2. A scanned reproduction of said representation as placed before us is as follows:



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WP No. 29544 of 2



Date: 30.07.2025
Kancheepuram

From,

S. Sudhakar (Age 38) (Ph: 9944262555)
S/o Sampath
Venkatarayanpettai street, Damal Village,
Kancheepuram – 631551

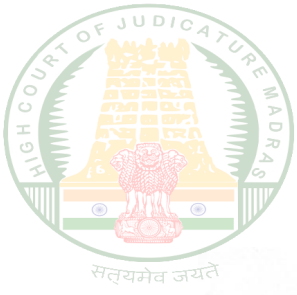
To,

The District Collector,
Kanchipuram District,
Kancheepuram – 631551

SUB:- Representation for Final Eviction Notice given by Highways department Dated: 21.07.2025 regarding the property located at Damal B village

Respected Sir/Madam,

This letter is my representation to the Final eviction notice received on [Dated: 21.07.2025] regarding the property located at [Venkatarayanpeta street, Damal Village] and already we have given serveral representation on the same. I and my predecessor are the rightful owner (Superstructure) of this land and have been in possession for over 50 years and in peaceful enjoyable possession without any disturbance or hindrance and even revenue document (Adangal) Survey No. 935 @Damal-B mentioned in the notice has our names in the mutation records as well as the other village members of around 100 families in the same survey number and all others have build they own superstructure similarly like us. Also, this Final eviction notice given to me were you had given only



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Date: 30.07.2025

Kancheepuram

seven days' time & forced to vacate in order to demolish the superstructure. So, I need much more time as we are residing here in this survey number for around 50 years and given time is not sufficient and also I am ready to cooperate and handover the superstructure along with entire 100 families if any requirements really comes from government for road expansion or else any land acquisition project. Also, we all belong to a very poor and weaker in the society & doing daily wages. So, I request a hearing or review of the eviction decision. Hence, I request the highway department to reconsider its decision or provide further clarification.

Note: If any further actions been taken by the highways department myself and the entire villagers Livelihood will get impacted. Also, we get to know as of now they is no plans for road expansion or land acquisition from government side.

Copy to:

Village Administration officer

Damal Village

Regards,



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3. Mr.K.Ashok Kumar, learned counsel on record for writ petitioner along with Mr.B.Manivannan, submits that writ petitioner suffered 'final orders' being 'order dated 21.07.2025 made by R4 under proviso to Section 28(2)(ii) of 'the Tamil Nadu Highways Act, 2001 (Tamil Nadu Act 34 of 2002)' {hereinafter 'said Act' for the sake of brevity, convenience and clarity} which shall hereinafter be referred to as 'said order' for the sake of brevity, convenience and clarity.

4. Mr.K.Ashok Kumar and Mr.B.Manivannan, learned counsel on record for writ petitioner very fairly submit that writ petitioner accepts the afore-referred said order and is not assailing the same. This submission of learned counsel for writ petitioner made on instructions is recorded as an undertaking given to this Court. Learned counsel for writ petitioner submit that, all that the writ petitioner seeks is (a) time; and (b) alternate accommodation subject to availability of an appropriate scheme and writ petitioner satisfying the eligibility criteria.

5. Issue notice to official respondents .

6. Mr.T.K.Saravanan, learned Additional Government Pleader, accepts notice for respondents 1 to 4 and submits that private respondent (fifth respondent) before us had earlier filed a writ petition in this Court being W.P.No.8333 of 2025 with a RoE prayer and the same came to be disposed of



by an order dated 11.03.2025 made by a Hon'ble Division Bench, to which one of us (M.Sundar J) is a party. This order reads as follows:

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'IN THE HIGH COURT OF JUDICATURE AT MADRAS

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

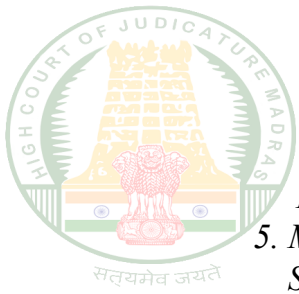
Shanthi

*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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Kanchipuram - 631 502

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), 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.

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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) 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 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.'

7. Afore-referred order speaks for itself and therefore, we refrain from dilating on the same.



8. However, it is significant to reiterate paragraph No.7 of the aforesaid order, wherein all rights and contentions of writ petitioner before us [Sudhakar, Son of Sampath] as well as another person [Venkatesan, Son of Arumugam] stood preserved if proceedings were initiated under Section 28 of said Act and said order came to be made.

9. Learned State Counsel submits that if the writ petitioner makes an application seeking alternate site, the same will have to be scrutinized. It is further submitted that if the writ petitioner makes such an application, the same will be scrutinized in the light of G.O.No.97 dated 21.02.2025 and / or any other applicable / available scheme.

10. Before we write the operative portion of this order, we deem it appropriate to record that learned State Counsel very fairly submitted that there are many other encroachers in the same area, more particularly in S.No.935 in Thamal-B Village in Chennai-Chittoor-Bangalore to Thamal Road (State Highway) situate within Kanchipuram Sub-division and action against the alleged encroachers i.e., alleged encroachers, who are similarly placed qua writ petitioner is in the anvil. Such action will be commenced as expeditiously as the business of official respondents permits but in any event, within eight weeks from today i.e., on or before 01.10.2025. This submission of learned



State Counsel is recorded as an undertaking given to this Court by official respondents.

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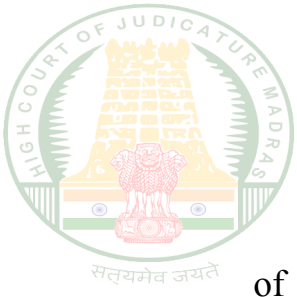
11. The following order is made:

(i) That the writ petitioner accepts said order i.e., final order dated 21.07.2025 made by R4 bearing reference Final Order/Letter No.23/2025/E.Ni.Oo is recorded as an undertaking given to this Court by the writ petitioner;

(ii) Writ petitioner can now make an application to the second respondent seeking an alternate site and such application shall be made by the writ petitioner within four weeks from today i.e., on or before 03.09.2025;

(iii) If writ petitioner makes an application in the aforesaid manner, the same shall be considered either in the light of G.O.Ms.No.97 dated 21.02.2025 and / or any other applicable / appropriate scheme and orders in the same will be made within 12 weeks therefrom i.e., on or before 26.11.2025;

(iv) Order to be made in the aforesaid manner shall be served on the writ petitioner under due acknowledgement within seven working days;



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(v) On aforesaid order being made (irrespective of the nature of the order), writ petitioner shall remove the encroachment in accordance with said order i.e., final order dated 21.07.2025 made by R4;

(vi) If writ petitioner does not remove himself, it will be open to the State to resort to coercive action;

(vii) State shall commence RoE action qua other encroachers in S.No.935 and in the same Highway;

and

(viii) In the light of this order, the time line vide our 11.03.2025 order in W.P.No.8333 of 2025 obviously, stands extended in the manner set out supra.

In the light of the order we have made, we have no hesitation in saying that notice to private respondent (R5) is dispensed with albeit with an observation that all rights and contentions of R5 will stand preserved. In this view of the matter, main WP was taken up with the consent of learned counsel for writ petitioner and learned State Counsel in the Admission Board.



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

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(M.S.,J.) (T.V.K.,J.)

06.08.2025

mk

speaking / Non-speaking order

Neutral Citation : Yes / No

Index : Yes / No

1. The Secretary
Highways Department
Government of Tamil Nadu
Fort St.George,
Chennai-600 009.
2. The District Collector
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WP No. 29544 of 2



M.SUNDAR, J.

AND

T.VINOD KUMAR, J.

mk

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