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W.P. No.32128 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.08.2025

CORAM:

THE HON'BLE MR. JUSTICE M. SUNDAR
AND
THE HON'BLE MR. JUSTICE HEMANT CHANDANGOUDAR

W.P. No.32128 of 2025

M. Kubendiran

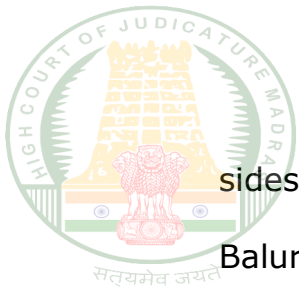
Petitioner

vs.

1. The District Collector
Vellore District
2. The Divisional Engineer
Highway, K (M) P Office
Vellore District
3. The Assistant Divisional Engineer
Highway, K (M) P
Gudiyatham
Vellore District
4. The Revenue Divisional Officer
Gudiyatham
Vellore District
5. The Tahsildar
Pernampattu
Vellore District
6. M. Saminathan
7. P. Murugan
8. A. Vinoth

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents 1 to 5 to conduct the survey the Pernampattu to Ambur Sathkar Road in both



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sides and remove the encroachments made by respondents 6 to 8 at Balur Village, Vellore District and desired the petitioner's representation dated 11.03.2024.

For petitioner	Mr. D. Gaurav
For RR 1 to 5	Mr. T.K. Saravanan Addl. Govt. Pleader
For RR 6 to 8	Notice dispensed with

ORDER

(made by M. SUNDAR, J.)

Captioned 'writ petition' [hereinafter 'WP' for the sake of brevity] has been filed with a 'Removal of Encroachment' (RoE) prayer.

2. Mr. D. Gaurav, learned counsel on record for writ petitioner, is before us.

3. It is submitted that the lands comprised in 'Survey Nos.242/1B, 243/2B and 244/2B in Baloor Village, Pernampet Taluk, Vellore District' [hereinafter 'writ petitioner's said lands' for the sake of convenience and clarity] belong to writ petitioner, eastern boundary of writ petitioner's said lands is a Highway, there is encroachment in the eastern boundary of writ petitioner's said lands,



i.e., State Highway, and that the alleged encroachers are private respondents (respondents 6 to 8). Repeated requests for RoE, including representation dated 11.03.2024 have not yielded results and that has necessitated the captioned WP is learned counsel's say.

4. Issue notice to official respondents.

5. Mr. T.K. Saravanan, learned Additional Government Pleader, accepts notice for official respondents (respondents 1 to 5) and submits, on instructions, that notices under Section 28(2)(ii) of 'the Tamil Nadu Highways Act, 2001 (Tamil Nadu Act 34 of 2002)' [hereinafter 'said Highways Act' for the sake of convenience and clarity] have already been issued to all three private respondents (respondents 6 to 8). It is pointed out that the notice issued to sixth respondent has been annexed as part of the typed set of papers (pages 23 and 24, to be precise) by the writ petitioner himself.

6. This Court finds that the scope of the captioned WP is very limited and an order can be made without impacting the rights of private respondents (respondents 6 to 8). Therefore, this Court dispenses with notice to private respondents (respondents 6 to 8) and takes up the captioned WP with the consent of learned counsel for writ petitioner and learned State counsel.



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7. Learned State counsel, instructed by Ms. R. Amul, Assistant Divisional Engineer, Highways Department, C & M, Katpadi Road, Gudiyatham 632 602 - third respondent, who is present before this Court, submits that the notices issued to private respondents (respondents 6 to 8) under Section 28(2)(ii) of said Highways Act are not happily worded as they are not 'show cause notices' (SCNs) and they directly call upon the noticees to remove the encroachment.

8. On further instructions from Ms. R. Amul, learned State counsel submits that the notices sent to private respondents (respondents 6 to 8) will stand withdrawn but makes a plea to preserve all the rights and contentions of official respondents to issue notices afresh, *i.e.*, SCNs in accordance with Section 28(2)(ii) of said Highways Act. This request is acceded to and therefore, notices under Section 28(2)(ii) of said Highways Act (signed by third respondent on 23.04.2025) stand effaced.

9. However, when fresh SCNs are issued to private respondents (respondents 6 to 8) and/or any other encroacher(s) also, all the rights and contentions of private respondents (respondents 6 to 8) are preserved to send appropriate reply. To be noted, this is one of the reasons for dispensing with notice to private respondents (respondents 6 to 8) and taking up the captioned WP.



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10. On instructions, learned State counsel submits that fresh SCNs under Section 28(2)(ii) of said Highways Act will be issued to private respondents (respondents 6 to 8) and/or any other encroacher(s) within one week from today, *i.e.*, on or before 04.09.2025. This submission is recorded as an undertaking given to this Court by respondents 2 and 3.

11. Be that as it may, learned State counsel also submits that private respondents have filed 'O.S. No.59 of 2005 on the file of the District Munsif Court, Gudiyatham' [hereinafter 'said suit' for the sake of convenience and clarity], writ petitioner is first defendant in the said suit and official respondents are other defendants.

12. The said suit shall be dealt with on its own merits and in accordance with law, untrammelled by instant order, subject to bar of jurisdiction of Civil Court, if any. It is made clear that in the said suit also, all the rights and contentions of all the parties stand preserved and instant order will not impact their rights.

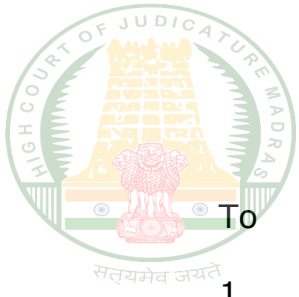


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13. Captioned WP stands disposed of as closed, albeit recording the stated position of learned State counsel, preservation of rights and observations as above. There shall be no order as to costs.

(M.S., J.) (H.C., J.)
28.08.2025

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