



W.P.Nos.36415 and 36419 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.06.2025

CORAM

THE HONOURABLE MR. JUSTICE M.SUNDAR
and

THE HONOURABLE MR. JUSTICE HEMANT CHANDANGOUDAR

W.P.Nos.36415 and 36419 of 2023
and

W.M.P. Nos.36431 & 36434 of 2023

Durairaj (since deceased)

1. Solaisamy

2. Dhandapani

Petitioners in W.P.No.36415/2023

Selvaraj

Petitioner in W.P.No.36419/2023

(Petitioners 1 and 2 in W.P.No.36415 of 2023 substituted as per order dated 04.06.2025 made in W.M.P.No.11758 of 2024 in W.P. No.36415 of 2023)

vs.

1. The District Collector
Tiruvallur District

2. The District Revenue Officer
Tiruvallur District

3. The Revenue Divisional Officer
Tiruvallur Revenue Division
Tiruvallur District

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4. The Tahsildar
Tiruvallur Taluk
Tiruvallur District
5. The Village Administrative Officer
Ammanapakkam Village
Tiruvallur District
6. The Assistant Divisional Engineer
Highways Construction and Maintenance (East)
Tiruvallur, Tiruvallur District Respondents in both WPs

Writ Petitions filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the respondents, particularly to respondents 1 to 5 for mutating the petitioners' name and for issue of regular patta to the petitioners comprised in Survey No.155B/5, Block 9A (in respect of W.P.No.36415 of 2023) and Block 10A (in respect of W.P.No.36419 of 2023) of Ammanampakkam Village, Tiruvallur Taluk, Tiruvallur District, by considering the petitioners' representations dated 25.08.2023 and 23.09.2023 within a time frame and till then, not to evict the petitioners.

For petitioners Mr. K.V. Muthuvisakan
in both WPs

For RR1 to 6 Mr. T.K. Saravanan
in both WPs Government Advocate



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COMMON ORDER

[made by M.SUNDAR, J.]

Subject matter of captioned two 'writ petitions' (hereinafter 'WPs' for the sake of brevity) is two parcels of land comprised in Survey No.155B/5, Block 9A and Block 10A of Ammanampakkam Village, Tiruvallur Taluk, Tiruvallur District (hereinafter 'said lands' for the sake of convenience and clarity). For the sake of clarity, we deem it appropriate to write that the land in Block 9A is the subject matter of W.P.No.36415 of 2023 and the land in Block 10A is the subject matter of W.P.No.36419 of 2023.

2. Mr. K.V. Muthuvisakan, learned counsel for writ petitioners, advertng to two representations, one dated 25.08.2023 and 23.09.2023 (hereinafter 'said representations' for the sake of convenience and clarity), submitted that the respondents have not acted on said representations *vide* which writ petitioners have sought mutation *qua* said lands (mutation in writ petitioners' names and issue of regular patta, though there is assignment *qua* said lands in favour of writ petitioners – assignment dated 11.05.1986).



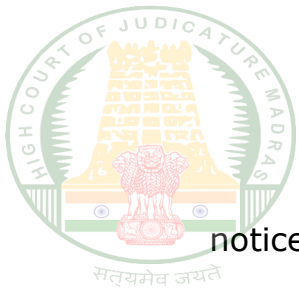
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3. Issue notice to respondents.

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4. Mr. T.K. Saravanan, learned Additional Government Pleader, accepts notice for all respondents (RR 1 to 6) and submits, on instructions, that there is encroachment in State Highway and therefore, notice dated 18.08.2023 bearing reference Kurippaanai En. 14/2023/U.Po captioned 'Irudhi Thaakkeedhu' meaning 'final notice' has been issued calling upon the writ petitioners to remove themselves *qua* said lands alleging that it is encroachment in Highway lands. (It is pertinent to point out that a perusal of notice dated 18.08.2023 would bring to light that it is not one issued to writ petitioners in instant writ petitions separately but it is a collective/common notice describing addressees as 'encroachers concerned'). This notice dated 18.08.2023 bearing reference Kurippaanai En. 14/2023/U.Po shall be referred to as 'said notice' for the sake of convenience and clarity.

5. Though said notice issued by Assistant Engineer (Highways–Construction and Maintenance) refers to Section 28 (2)(ii) of 'the Tamil Nadu Highways Act, 2001 (Act 34 of 2002) [hereinafter 'TN Highways Act' for the sake of brevity], a careful perusal of the said



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notice brings to light that the writ petitioners have not been show caused, though Section 28 clearly mandates that noticees have to be show caused. To be noted, Section 28 (in its entirety) of TN Highways Act reads as follows:

'28. Prevention of encroachment – (1) The Highways Authority or any person authorised by it in this behalf shall, at such time as may be considered necessary, conduct such checks and periodical inspection of the highway boundaries, with the view to ensure the prevention of unauthorised encroachment and the removal of such encroachment.

(2) The Highways authority or any person authorised by it in this behalf, may--

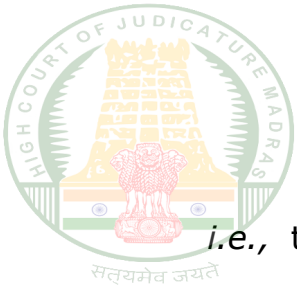
(i) remove, without any notice, any movable temporary structure, enclosure, stall, booth, any article whatsoever hawked, exposed or displayed for sale or any other thing whatsoever by way of encroaching the highway or in any area where the construction or development of a highway is undertaken or proposed to be undertaken.

(ii) remove any immovable structure, whether permanent or temporary in nature, encroaching the highway or in the area vested with Government under this Act, after issuing a show cause notice against such removal, returnable within a period of seven days from the date of receipt thereof:

Provided that any representation received within the time limit shall be considered by the authority or officer concerned before passing final orders.'

(underlining made by us for ease of reference)

6. Faced with the above situation, learned State counsel, in his usual fairness, submitted that said notice will now stand withdrawn



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i.e., there will be a roll back *qua* said notice. This submission is recorded and on the basis of this submission/concession of learned State counsel, said notice now stands effaced by this judicial order.

7. Reverting to said representations, learned State counsel submits that they are under active consideration of R4 (Tahsildar) and that appropriate orders will be passed as expeditiously as the official business of R4 permits but in any event within four weeks from today *i.e.*, on or before 02.07.2025. To be noted, in this regard, learned State counsel submits, on instructions, that aforereferred assignments are incorrect and according to learned State counsel, assignment deeds are documents which have been fabricated.

8. We express no opinion or view on the same but we deem it appropriate to write that writ petitioners undertake to produce the original assignment deeds before R4 and R4 shall consider the same, including veracity of the assignment deeds, and make an order without reference to / dehors and uninfluenced by earlier report in this regard.



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9. Post orders to be made by R4 in the aforesaid manner, depending on and subject to the orders to be made by R4 *qua* said representations, it is open to R6 or any other appropriate authority under TN Highways Act to issue show cause notices (SCNs) under Section 28(2)(ii) of TN Highways Act, if so advised and so desired. If such a scenario unfurls, we make it clear that all the rights and contentions of writ petitioners will stand preserved for responding to the SCNs and the same shall be considered on their own merits and in accordance with law untrammelled by the instant order.

10. Captioned WPs stand disposed of in the aforesaid manner. As there is a roll back of said notice, captioned WMPs have become otiose and the same are disposed of as closed. There shall be no order as to costs.

(M.S.,J.) (H.C.,J.)
04.06.2025

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M.SUNDAR, J.

and

HEMANT CHANDANGOUDAR, J.

cad

To

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Tiruvallur District
2. The District Revenue Officer
Tiruvallur District
3. The Revenue Divisional Officer
Tiruvallur Revenue Division
Tiruvallur District
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