



W.P. No.33221 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 29.08.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR
and
THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

W.P.No.33221 of 2025 and W.M.P.No.37349 of 2025

K.Ganesan

... Petitioner

VS.

1. The District Collector
Collectorate, Salem
Salem District

2. The Divisional Engineer (Highways)
Construction and Maintenance
Edappadi, Salem District

3. The Assistant Divisional Engineer (Highways)
Construction and Maintenance
Sankari, Salem District

4. The Assistant Engineer (Highways)
Sankari, Salem District

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records relating to the impugned order (i) Ku. No 140/ 2025 / AE dated 07.08.2025 passed by the 4th respondent, (ii) Na.Ka. No 597 / 2024-25 / U dated 17.03.2025

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passed by the 3rd respondent, and (iii) Ku. No 2225/ 2024-25 / Ei Va A -2 dated 16.04.2025 passed by the 2nd respondent, quash the same and consequently direct the respondents to grant permission to the petitioner to have right of access through the road margin of Vaiguntham - Vadugapatti State Highways in SF No 370/3B to enter into his lands in SF Nos. 381/1, 381/2, 381/4A, 381/6 and 381/8A Vaikuntham Village, Sankari Taluk, Salem District by considering his representations dated 29.11.2024 and 08.02.2025.

For petitioner : Mr.S.Shrish
for Mr.N.Manokaran

For Respondents : Mr.T.K.Saravanan
Additional Government Pleader

ORDER

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

Land comprised in 'S.Nos.370/1A1, 370/1A2 and 370/3A, all in Vaikuntham Village, Sankari Taluk, Salem District' shall be referred to as 'I parcel of said land' and land comprised in 'S.No.370/3B in Vaikuntham Village, Sankari Taluk, Salem District' shall be referred to as 'II parcel of said land'.

2. Mr.S.Shrish, learned counsel representing the counsel on record for writ petitioner submits that with regard to I parcel of said land, the writ



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petitioner sent two representations, one dated 29.11.2024 and another dated 08.02.2025 seeking permission to put up what has been described as a 'Culvert' (small bridge - சிறிய பாலம்) in this I parcel of said land. In and by a communication dated 17.03.2025 bearing reference Na.Ka. No 597 / 2024-25 / U , which is a communication from third respondent to second respondent, afore-referred two representations, were negatived primarily on the ground that I parcel of said land is patta land. Subsequently, second respondent made an order dated 16.04.2025 bearing reference Ku. No 2225/ 2024-25 / Ei Va A -2 stating that I parcel of said land is patta land and therefore, the requests of the writ petitioner cannot be acceded to. The '17.03.2025 interoffice communication between third respondent and second respondent' and '16.04.2025 communication from second respondent to writ petitioner' shall be referred to as 'I impugned order' and II impugned order' respectively.



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3. As regards II parcel of said land, writ petitioner was visited with a notice dated 06.05.2025 bearing reference Ku.No.140/2025/U.Po, writ petitioner challenged the same by way of an earlier writ petition in this Court being W.P.No.18421 of 2025, the same along with the WMP thereat came to be disposed of by this Bench on 06.06.2025. The operative portion is paragraph 8 and the same reads as follows:

'8. *In view of noncompliance of proviso to Section 28(2)(ii) of said Act, in order to secure the ends of justice, the following order is made:*

- i. Impugned notice shall be treated as a show cause notice (SCN) served on the writ petitioner today and the writ petitioner's representation dated 10.05.2025 in response to the impugned notice which is now directed to be treated as SCN, shall be considered on its own merits and in accordance with law by R3 and final orders shall be passed by R3 in accordance with proviso to Section 28(2)(ii) of said Act;*
- ii. Final order so passed shall be served on the writ petitioner within a period of five working days from the date of the final order;*
- iii. If the final order to be passed by R3 ends up in favour of the writ petitioner, that would be curtains on the matter;*
- iv. If it happens to the contrary, in other words, if the final order to be passed by R3 is going to be adverse to the writ petitioner, the same shall be kept in abeyance for a fortnight from the date*



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of service of the final order on the writ petitioner so as to provide a window to the writ petitioner to assail the said order if permissible in law or to seek judicial review of the said order;

- v. If the writ petitioner does not take recourse to either of the aforesaid two options within a fortnight from the date of service of the final order, the final order to be passed by R3 will be resuscitated and put into motion;*
- vi. Though obvious, we make it clear that any further coercive action qua removal of encroachment will be subject to / depending on final orders to be passed by R3 under proviso to Section 28(2)(ii) of said Act; and*
- vii. We also make it clear (though obvious) that we have not expressed any view or opinion on the merits of the matter and therefore, R3, while passing final order, shall do so untrammelled by the observations made in this order.'*

4. Post 06.06.2025 order, fourth respondent has now made an 'order dated 07.08.2025 bearing reference Ku. No 140/ 2025 / U.Po' [hereinafter 'III impugned order' for the sake of convenience].



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WEB COPY 5. Learned counsel for writ petitioner submits that III impugned order has been made by fourth respondent without considering the writ petitioner's response dated 10.05.2025 as well as writ petitioner's further representations dated 15.05.2025 and 05.08.2025.

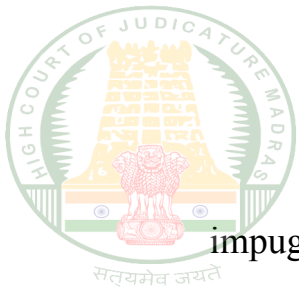
6. Issue notice.

7. Mr.T.K.Saravanan, learned Additional Government Pleader accepts notice for all four respondents and submits, on instructions, that III impugned order is being withdrawn. This submission is recorded.

8. In this view of the matter, the III impugned order stands effaced without expression of any view or opinion on the merits of the matter.

9. The above leaves us with I and II impugned orders.

10. Owing to want of instructions regarding correlation between I parcel of said land and II parcel of said land, learned counsel for writ petitioner sought leave of this Court to abridge the prayer with regard to III impugned order and sought leave of this Court to abandon the prayer as regards challenge to I and II impugned orders but made a plea to preserve all the rights and contentions of the writ petitioner to assail the I and II



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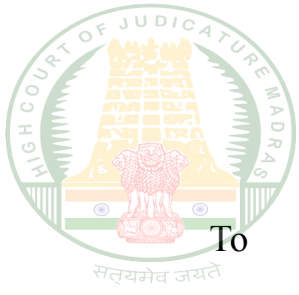
impugned orders in an appropriate Fora including by way of another writ petition, if so advised and if so desired. This request is acceded to.

11. All the rights and contentions of R4 are preserved to make orders afresh as regards III impugned order and though obvious the order to be made should be in compliance with our earlier order dated 06.06.2025 in W.P.No.18421 of 2025 and WMPs thereat. To be noted, Paragraph 8 of that order, which is the operative portion, has been extracted and reproduced supra.

Captioned writ petition disposed of in the aforesaid manner. As III impugned order has been effaced, captioned WMP has become otiose and therefore, the same is disposed as closed having become otiose. There shall be no order as to costs.

(M.S., J.) (H.C., J.)
29.08.2025

Indexs : Yes/No
Neutral Citation : Yes/No
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