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W.P.No.34977 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2025

CORAM :

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR
AND
THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

W.P.No.34977 of 2025

1. Balasingh
2. Ramapraha .. Petitioners

Vs.

1. The Divisional Engineer (Highways) (C&M)
Gobichettipalayam.
2. The Assistant Divisional Engineer (Highways)
Highways Department (C&M)
Gobichettipalayam.
3. The Tahsildar
Gobichettipalayam. .. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, seeking a writ of certiorarified mandamus, calling for the records relating to the impugned showcause notice dated 16.07.2025 and consequential final order dated 22.08.2025 passed by the 2nd respondent and quash the same, and consequently direct the respondent 1 and 2 to grant the petitioners a reasonable period of six months to enable them to vacate and remove their fixtures and interiors from the premises.

For the Petitioner : Mr.L.Chandrakumar
for Mr.V.Anandhamurthy

For the Respondents : Mr.E.Vijay Anand
Additional Government Pleader



W.P.No.34977 of 2025

WEB COPY

ORDER

(Order of the Court was made by R.SURESH KUMAR, J.)

The prayer sought herein is for a writ of certiorarified mandamus, calling for the records relating to the impugned show-cause notice dated 16.07.2025 and the consequential final order dated 22.08.2025 passed by the 2nd respondent and to quash the same, and consequently direct the respondents 1 and 2 to grant the petitioners a reasonable period of six months to enable them to vacate and remove their fixtures and interiors from the premises.

2. The land at Modachur Village in S.No.73, belongs to the Highways Department in Gopi-Uthukkuli-Padiyur Road of Gobichettipalayam (H) C&M Sub-Division, as per the Tamil Nadu Highways Act, 2001. In the said land, already there has been an encroachment by the petitioners, which according to *Mr.L.Chandrakumar*, the learned counsel appearing for the petitioners, is a mistake, where, a part of the adjacent survey numbers, next to the own land of the petitioners, has been encroached upon and construction has been made, where, commercial establishment has already been established.



W.P.No.34977 of 2025

WEB COPY

3. Now, after having realized that there has been an encroachment in the Highways land, the petitioners want to vacate the same, but, however, since there are commercial establishments in the land in question, in order to make an alternate arrangement, the time of 180 days, that is six months, had in fact been sought from the respondents, however, the respondents, having considered the same, rejected it by the order dated 22.08.2025, which is impugned in this writ petition.

4. Heard *Mr.L.Chandrakumar*, learned counsel for the petitioners, who would submit that, even before this Court, an undertaking affidavit has been filed by the petitioners dated 18.09.2025, where, they have undertook to vacate the premises within a period of 180 days and whatever drainage construction is to be undertaken, that also would be taken care of by the petitioners. Since that has already been given by way of an undertaking affidavit, the learned counsel seeks indulgence of this Court to give such time for vacating the premises and to shift their commercial activities to their own building or in other alternative building.



W.P.No.34977 of 2025

5. However, *Mr.E.Vijay Anand*, learned Additional Government Pleader appearing for the respondents would submit that, having accepted that it is an encroachment, if the petitioners want to vacate it, a reasonable time could also be taken, however, six months' period is sought, but the same has to be completed at the earliest before the monsoon season, therefore, that was considered and rejected through the impugned order. Hence, it does not warrant any interference at our hands.

6. We have considered the said rival submissions made by both sides and have perused the materials placed before this Court.

9. Insofar as the land in question is concerned, since it is admittedly a Highways land, where pakka construction has been made, of course mistakenly as claimed by the petitioners, as the adjacent land belongs to the petitioners, where commercial establishments have been made and shops are functioning, in order to relocate the shops, since time has been sought by the petitioners, whether the same could be considered at the present juncture or not is the only question.



W.P.No.34977 of 2025

10. We have also taken into account the undertaking affidavit filed by the petitioners, where, *inter alia*, the petitioners have stated the following:-

"2. I have filed the above writ petition challenging the show cause notice dated 16.07.2025 and consequential final order dated 22.08.2025 passed by the second respondent under Section 28(2)(ii) and Section 29 of the Tamil Nadu Highways Act, 2011 and consequently seeking a direction to the respondents 1 and 2 to grant me reasonable time to comply with the requirements.

3. I submit that we hereby undertake to handover the vacant land after removing the entire structure and all other appurtenances within a period of six months. We will also undertake to construct the drainage running in front of our property as per the approved plan of the respondents 1 and 2 at my cost. No prejudice will be caused to the respondents.

It is therefore prayed that this Hon'ble Court may be pleased to record this affidavit on record and to grant the petitioners a reasonable period of six months to enable them to vacate and remove the structures and interiors from the premises and thus render justice."



W.P.No.34977 of 2025

11. In view of the solemn undertaking given by the petitioners, that they will vacate the premises and it is ensured that the construction of the drainage, running in front of the property, also would be taken care of at the cost of the petitioners, we deem it proper to dispose of the writ petition with the following orders:-

(i) That four months' time is granted to the petitioners to vacate the premises and ultimately, the drainage also shall be taken care of by the petitioners at their cost. The four months' period would be over by 31.01.2026. On or before such date, the complete vacating of the premises shall be made and the vacant possession be handed over to the respondents. Till such time, the present occupation or enjoyment of the property by the petitioners need not be disturbed.

12. With these directions and conditions, this writ petition is disposed of. Consequently, W.M.P.Nos.39124 & 39125 of 2025 are closed. W.M.P.No.39123 of 2025, petition filed seeking permission by the petitioners to file a single writ petition, stands ordered, inasmuch as they have paid separate set of Court fees.

(R.S.K., J.) (H.C., J.)
22.09.2025

Speaking Order/Non-Speaking Order
Index:Yes/No
Internet:Yes/No
Neutral Citation:Yes/No

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W.P.No.34977 of 2025

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To:

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Gobichettipalayam.
2. The Assistant Divisional Engineer (Highways)
Highways Department (C&M)
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R. SURESH KUMAR, J.
AND
HEMANT CHANDANGOUDAR, J.
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