



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED : 30.04.2014  
CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

WEB COPY

W.P. (MD) No.7583 of 2014  
and  
M.P. (MD) No.2 of 2014

1.M.S.Jyothilekshmi Thankachy

2.P.Bhageerathi Bai Thankachy  
@ Baby Thankachy

... Petitioners

Vs.

1.The Divisional Engineer-cum-  
Highways Authority of  
Kanyakumari Division,  
Highways Department at  
Nagercoil, Kanyakumari District.

2.The Divisional Engineer (Highways),  
Construction and Maintenance,  
Nagercoil, Kanyakumari District.

3.The Assistant Divisional Engineer  
(Highways), Constructions and  
Maintenance, Market Road,  
Thuckalay, Kanyakumari District -629 175.

4.The Assistant Engineer (Highways),  
Market Road, Thuckalay,  
Kanyakumari District- 629 175.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents to forbear from doing themselves or through their subordinates, men or servants or anybody claiming under them, any act in, on or over the petitioners' properties of 1 are in Resurvey No.853/13, 0.5 are in Resurvey No.853/11, 1.5 ares in Resurvey No.853/14 and 1 are in Resurvey No.853/12, all of Thiruvattar Village, Kalkulam Taluk, Kanyakumari District.

For Petitioner : Mr.K.N.Thampi  
For respondents : Mr.R.Karthikeyan,  
Addl. Government Pleader

ORDER

This writ petition has been filed by the petitioner for a writ of Mandamus, directing the respondents to forbear from doing themselves or through their subordinates, men or servants or anybody claiming under them, any act in, on or over the petitioners' properties of 1 Are in Resurvey No.853/13, 0.5 Ares in Resurvey No.853/11, 1.5 Ares in Resurvey



No.853/14 and 1 Ares in Resurvey No.853/12, situated at Thiruvattar Village, Kalkulam Taluk, Kanyakumari District.

2.It is averred in the writ petition that the first petitioner has been in lawful possession and enjoyment of a plot to an extent of 3 ares, i.e., 1 Ares in Resurvey No.853/13, 0.5 Are in Resurvey No.853/11 and 1.5 Ares in Resurvey No.853/14, situated at Thiruvattar Village, Kalkulam Taluk, Kanyakumari District, by constructing a house, for a long time. The co-petitioner viz., the second petitioner is entitled to a plot of land to an extent of 1 Ares, which is situated on the north of the land owned by the first petitioner. Both the plots are fully compounded by a strong compound wall and they are twenty years old. The petitioners have been paying land tax, etc. in respect of their respective plots. On the west of the said plots, Kulasekharam - Colachel Highways, is running, maintained by the respondents. While so, on 06.03.2014 the officials of the respondents have forcibly trespassed into the plots of the petitioners and marked certain portions, covering the compound wall, as if the said portions belong to the Highways Department. When the petitioners questioned the same, they informed that the respondents would demolish the compound wall upto the said marks. The respondents have not issued any notice in this regard. The above acts of the respondents and their subordinates are illegal, without jurisdiction, arbitrary and malafide. In this regard, the first petitioner has sent a representation, dated 13.03.2014, to the respondents 1, 3 and 4. The second respondent, by his reply dated 21.03.2014, has informed that the representation of the first petitioner has been forwarded to the third respondent for submitting a report. The second petitioner has also sent his representation, dated 13.03.2014, to the respondents 2, 3 & 4, in this regard. But, there was no response to the same. Hence, the petitioners have come forward with this writ petition for the relief stated supra.

3.Today, when the matter came up for hearing, the learned counsel appearing for the respondents submitted that the petitioners have not furnished necessary documents along with their representations and if they furnish the documents, the third respondent would consider the same, on merits.

4.Considering the above submission made by the learned counsel appearing for the respondents, the petitioners are directed to submit a fresh representation, along with the relevant documents, to the third respondent herein, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the said representations, the third respondent is directed to consider the same and pass an appropriate order on merits and in accordance with law, within eight weeks thereafter. Till such time, the respondents shall not take any coercive action against the petitioners.

5.This writ petition is accordingly disposed of. No costs. Consequently, connected miscellaneous petition is closed.

gcg

Sd/-

Assistant Registrar[Cr1 side]

\\True copy\\

<https://hcservices.ecourts.gov.in/hcservices/>

Sub Assistant Registrar



To

1.The Divisional Engineer-cum-  
Highways Authority of  
Kanyakumari Division,  
Highways Department at  
Nagercoil, Kanyakumari District.

2.The Divisional Engineer (Highways),  
Construction and Maintenance,  
Nagercoil, Kanyakumari District.

3.The Assistant Divisional Engineer  
(Highways), Constructions and  
Maintenance, Market Road,  
Thuckalay, Kanyakumari District -629 175.

4.The Assistant Engineer (Highways),  
Market Road, Thuckalay,  
Kanyakumari District- 629 175.

+1. CC to MR.K.N.Thampi, Advocate SR.No.27329.

W.P. (MD) No.7583 of 2014  
Dated:30.04.2014

3P/6C  
RPB 22.05.2014