

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2015

CORAM

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.P. Nos.10411 and 10412 of 2015 and M.P. Nos.1 & 2 of 2015

A. Marimuthu Petitioner in WP No.10411/2015
M. Krishnan Petitioner in WP No.10412/2015

vs.

- 1 The Assistant Divisional Engineer
Highway Department (C & M)
Idappadi
Salem District
 - 2 The Assistant Engineer - Highway
Assistant Engineer
Highways Office
Construction and Maintenance
Idappadi
Salem District
- Respondents in both the WPs

Prayer in W.P. No.10411 of 2015:

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records pertaining to the order passed by the respondents in Memo No.2/2015/A.E./ dated 12.02.2015 and letter No.Encroachment/2014-15/J.A./dated 23.03.2015 respectively and quash the same, consequently issue direction directing the respondents to consider the petitioner's representation dated 17.02.2015 and 27.03.2015 on par with Section 26(2) of the Tamil Nadu Highways Act, 2001, which is mentioned in the impugned order.

Prayer in W.P. No.10412 of 2015:

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records pertaining to the order passed by the second respondent in Memo No.2/2015/A.E./ dated 12.02.2015 and first respondent in letter

No.Encroachment/2014-15/J.A./dated 23.03.2015 respectively and quash the same, consequently issue direction directing the respondents to consider the petitioner's representation dated 17.02.2015 and 27.03.2015 on par with Section 26(2) of the Tamil Nadu Highways Act, 2001, which is mentioned in the impugned order.

For petitioner in
both the WPs

Mr. R. Marudhachalamurthy

For respondents
in both the WPs

Mr. N. Sakthivel
Government Advocate

COMMON ORDER

(Order of the Court was made by SATISH K. AGNIHOTRI, J.)

In view of commonality of the issue involved in these writ petitions, these writ petitions are being considered and decided by this common order.

2 Mr. N. Sakthivel, learned Government Advocate, takes notice for the respondents. With the consent of the learned counsel on either side, the writ petitions are taken up for final disposal, at the admission stage itself.

3 Challenge in these writ petitions is to the notices dated 12.02.2015 issued by the second respondent by which the petitioners have been asked to show cause, within three days, as to why steps should not be taken to remove the encroachments made by them in the land belonging to the Highways and also the Final Memos dated 23.03.2015 issued by the first respondent, calling upon the petitioners to remove the encroachments made by them, within a period of 7 days from the date of receipt of the said Final Memos.

4 Before issuance of the Final Memos dated 23.03.2015 by the first respondent, show cause notices were issued on 12.02.2015 by the second respondent, to which, the petitioners submitted their replies on 17.02.2015. On consideration of their replies, the impugned Final Memos have been issued by the first respondent holding that there are encroachments and as such, the same be removed within a period of 7 days.

5 The learned counsel for the petitioners submits that the authorities are under an obligation to consider the petitioners' representations dated 17.02.2015 and 27.03.2015 and pass a reasoned order before passing final orders.

6 Be that as it may, the impugned Final Memos are appealable and as such, the petitioners may approach the statutory authority for consideration of facts and also their representations.

7 In such view of the matter, we are not inclined to interfere with the impugned show cause notices and Final Memos, at this stage. However, liberty is reserved to the petitioners to take recourse to the appropriate statutory forum, as available under provisions of law. However, it is made clear that status quo, as obtained today, in respect of the lands in question, shall be maintained for a period of two weeks.

8 With the above observations, the writ petitions stand disposed of. Costs made easy. Connected Miscellaneous Petitions are closed.

cad

s/d-
Assistant Registrar(R)
Dt:10/4/2015

True Copy

Sub-Assistant Registrar

To

1 The Assistant Divisional Engineer
Highway Department (C & M)
Idappadi
Salem District

2 The Assistant Engineer - Highway
Assistant Engineer
Highways Office
Construction and Maintenance
Idappadi
Salem District

+ 2 ccs to M/s.R.Marudhachalamurthy, Advocate SR 19787 & 19788

+ 1 cc to Government Pleader SR 19953

(co)
prk10/4

W.P. Nos.10411 and 10412 of 2015