

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2015

CORAM:

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

W.P. No.10932 of 2015

and

M.P. No.1 of 2015

Vimala

...Petitioner

Vs.

- 1 The District Collector
Office of the Collectorate
Tiruvannamalai District
- 2 The Additional Director of Panchayat
Cheyyar
Tiruvannamalai District
- 3 The Block Development Officer
Village Panchayat
Chetpet Panchayat Union
Polur Taluk
Tiruvannamalai District

...Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the records pertaining to the impugned notice dated 17.03.2015 in Na.Ka.V.A-3/2634/2012 issued by the third respondent, quash the same and consequently forbear the third respondent from demolishing the petitioner's property bearing Door No.7/1, Railway Station Road, Vadamathimangalam Village, Polur Taluk, Tiruvannamalai District.

For petitioner : Mr. P. Satheesh Kumar

For RR 1 & 2 : Mr. P.S. Sivashanmugasundaram
Special Government Pleader

For R3 : Mr. R.M. Muthukumar

ORDER

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

Mr. P.S. Sivashanmugasundaram, learned Special Government Pleader, takes notice for respondents 1 and 2. Mr. R.M. Muthukumar, learned counsel, takes notice for the third respondent. With the consent of the learned counsel for the parties, the writ petition is taken up for final disposal, at the admission stage itself.

2 Questioning the legality and validity of the notice dated 17.03.2015 issued by the third respondent, whereby and whereunder, the petitioner has been directed to remove the encroachment in Survey No.45/A2 in the Kulatheri Lake, the petitioner has come up with the instant writ petition.

3 According to the learned counsel for the petitioner, the impugned notice calling upon the petitioner to remove the alleged encroachment in Survey No.45/A2 has been issued without affording an opportunity of hearing to her to put forth her case that she had not caused any encroachment on the land in question.

4 On a bare perusal of the impugned order and other documents, we find that the impugned final order has been passed under the caption "notice", without there being any reference to any notice in the nature of show cause notice issued earlier, affording an opportunity of hearing to the petitioner.

5 In such view of the matter, we are of the considered view that the impugned notice be treated as show cause notice, granting two weeks time to the petitioner to file her objection/reply. Thereafter, appropriate orders can be passed and appropriate action can be taken on merits and in accordance with law. The petitioner is at liberty to question the aspect of jurisdiction, if she so desires, as she has raised the issue of jurisdiction of the authority also, in this writ petition. Upon the petitioner filing her objection/reply, the authorities are expected to advert to each and every objection raised by the petitioner, before passing the

final order. Needless to state that no step can be taken till the final order is passed.

6 With the above directions and observations, the writ petition stands disposed of. Costs made easy. Connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

cad

To

- 1 The District Collector
Office of the Collectorate
Tiruvannamalai District
- 2 The Additional Director of Panchayat
Cheyyar
Tiruvannamalai District
- 3 The Block Development Officer
Village Panchayat
Chetpet Panchayat Union
Polur Taluk
Tiruvannamalai District

1 CC to Mr. P. Satheesh Kumar, Advocate SR.No. 21059

1 CC to the Government Pleader, SR.No. 20827

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SKV (CO)

PSI (24.04.2015)