

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.06.2015

CORAM:

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

W.P. No.16795 of 2015 and M.P. Nos.1 to 4 of 2015

T.V. Amasalingam

Petitioner

vs.

- 1 The Divisional Engineer - Highways
Thiruvallur
Tiruvallur District
- 2 The Assistant Divisional Engineer - Highways
Ambattur Sub Division
Avadi
Chennai 600 054
- 3 The Assistant Engineer - Highways
Poonamallee, Chennai 600 054
- 4 The Tahsildar
Poonamallee Taluk, Tiruvellore District

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records in the impugned final order in Ref.No.414/2015/C2 dated 13.04.2015 issued by the second respondent and quash the same and consequentially, direct the respondents to fix survey boundary for the road in S.No.147 running on the western side of the petitioner's property in S.No.146/1, Chembarambakkam Village, Poonamallee Taluk.

For petitioner Mr. N.S. Nandakumar
For respondents Mr. P.S. Sivashanmugasundaram
Special Government Pleader

ORDER

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

With the consent of the learned counsel for the parties, the writ petition is taken up for final disposal, at the admission stage itsef.

2 This writ petition is filed challenging the final order dated 13.04.2015 issued by the second respondent, whereby and whereunder, the petitioner has been asked to remove the encroachments made on the Highways land and in default, it has been informed that the encroachments would be removed as per Section 28(2)(ii) of the Tamil Nadu Highways Act, 2001. By the instant petitioner, the petitioner has further prayed for a consequential direction to the respondents to fix the survey boundary for the road in S.No.147 running on the western side of his property in S.No.146/1, Chembarambakkam Village, Poonamallee Taluk.

3 The petitioner's main grievance is that the allegation of the respondents/authorities that he had made encroachment on the left side of the Chembarambakkam Road, 0/0-0250 in S.No.147 is not correct as the property in question is under his legal ownership and he has not made any encroachment on the Highways land.

4 In that respect, it is projected by the learned counsel for the petitioner that the petitioner had made a representation on 10.04.2015 for a proper survey of the land in question in his presence. Thereafter, if any portion of the land is found under encroachment, either the petitioner himself will remove the same or the same may be removed by the authorities. It is further contended that without acceding to the petitioner's request for survey, the authorities have passed the final order on 13.04.2015 for removal of the alleged encroachment, which is contrary to the facts.

5 Per contra, Mr. P.S. Sivashanmugasundaram, learned Special Government Pleader appearing for the respondents submits that necessary survey, on the basis of spot inspection in the presence of the petitioner, shall be made within a period of two weeks and thereafter, if it is found that there is some encroachment on the Highways land, a fresh order shall be passed for removal of the encroachment.

6 In that view of the matter, we are not inclined to adjudicate upon the dispute, at this stage. However, we direct the authorities to have the survey on proper inspection in the presence of the petitioner and take consequential action thereafter, on merits and as per law.

WEB COPY

7 The writ petition stands disposed of with the above observations. Costs made easy. Connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

cad
To

- 1 The Divisional Engineer - Highways
Thiruvallur
Tiruvallur District
 - 2 The Assistant Divisional Engineer - Highways
Ambattur Sub Division
Avadi
Chennai 600 054
 - 3 The Assistant Engineer - Highways
Poonamallee, Chennai 600 054
 - 4 The Tahsildar
Poonamallee Taluk, Tiruvellore District.
- 1 cc to Government Pleader.Sr.No.29109

W.P. No.16795 of 2015

ctk(co)
pmk.22.6.2015

सत्यमेव जयते

WEB COPY