

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.16864 of 2015
and
M.P. No.1 of 2015

A. Santha

...Petitioner

Vs.

The Assistant Divisional Engineer
Highways Department
Tiruchengodu
Namakkal District

...Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari calling for the records of the respondent in Ku.Number 5.15/E/Nee/u. dated 25.05.2015 and quash the same.

For petitioner : Mr. P. Solomon Francis

For respondent : Mr. P.S. Sivashanmugasundaram
Special Government Pleader

ORDER

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

Mr. P.S. Sivashanmugasundaram, learned Special Government Pleader, accepts notice for the respondent.

2 This writ petition is filed challenging the final notice dated 25.05.2015 issued by the respondent, whereby and whereunder, the petitioner has been asked to remove the encroachment made by him, within a period of seven days from the date of receipt of the said notice. In default, it was informed that the encroachment would be

removed by the Department and the cost thereof would be recovered from the petitioner.

3 It is to be noted that one T. Tilakavathi had approached this Court earlier in W.P. No.2593 of 2015 seeking a direction to the respondents/authorities to pass appropriate orders under the Tamil Nadu Highways Act, 2001, against encroachments made by respondents 8 to 18 therein on the State Highways land, abutting her property in Survey Nos.199/2A, 199/2B, 199/2C, 199/2D, 199/2E in Tiruchengodu Municipal Town Ward D, which have disrupted the ingress and egress from her property. In the said writ petition, the petitioner herein was the 12th respondent.

4 This Court, by order dated 26.02.2015, having considered all aspects of the matter, disposed of the aforesaid writ petition in the following terms:

"5. We accordingly direct the official respondents to take all necessary steps for removal of encroachment if it is found, on proper enquiry after consideration of the representation made by the alleged encroachers pursuant to the notice dated 23.02.2015. The entire exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order. Accordingly, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed."

5 Thereafter, the authorities have issued notice and also considered the representation dated 12.03.2015 submitted by the petitioner herein before passing the impugned order dated 25.05.2015.

6 The petitioner again reiterates that despite a clear direction given to the State authorities to consider the petitioner's representation, the same has not yet been considered.

7 On a perusal of the petitioner's representation, we find that what the petitioner has submitted in her representation is not that she is the legal owner of the land in question, but, a request to consider her case for grant of house plot, after converting nature of the said land from "Itteri Poramboke" to "Village Natham".

8 We have examined the petitioner's representation and also considered the submissions advanced by the learned counsel appearing for either side. The land in question belongs to Highways Department. The case of the petitioner is that the land is in the nature of "Itteri Poramboke". The said land has to be protected from all encroachment. Thus the contention that the land is village natham for

the purpose of allotment of house plots, was rightly rejected. Accordingly, the decision of the authorities, which is impugned herein, is proper, perfect and sustainable in the eye of law.

9 As a sequel, the writ petition fails and is accordingly dismissed. Costs made easy.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

cad

To

The Assistant Divisional Engineer
Highways Department
Tiruchengodu
Namakkal District

1 CC to Mr. P. Solomon Francis, Advocate SR.No. 28940

1 CC to the Government Pleader, SR.No. 29112

W.P. No.16864 of 2015

VD (CO)
PSI (23.06.2015)



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