

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.06.2015

CORAM:

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

W.P. No.17685 of 2015

A. Logu

... Petitioner

vs.

1.The Commissioner
O/o the Chennai Corporation
Ripon Building
Chennai

2.The Regional Joint Commissioner - South
Chennai Corporation, Zone 13
Chennai

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records relating to the notice of the second respondent dated 04.05.2015 in Ma.A.13/A9/3924/2015 and quash the same and consequently, issued direction to the respondents not to dispossess the petitioner from his residence at No.10-A, Durgabai Deshmukh Road, R.A. Puram, Chennai - 28, without affording opportunity of hearing to the petitioner.

For petitioner : Mr.G.Magesh Kumar

For respondents : Ms.Karthikaa Ashok,
Standing Counsel for Corporation

ORDER

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

Ms. Karthikaa Ashok, learned Standing Counsel, accepts notice for the respondents. 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. Assailing the legality and validity of the notice dated 04.05.2015 issued under Sections 220 and 222 of the Chennai City Municipal Corporation Act, 1919,, the petitioner has come up with the instant writ petition.

3. According to the learned counsel for the petitioner, the petitioner is called upon to remove the so-called encroachment made on Survey No.4270/1, Thiru.Vi.Ka. Bridge, Durgabai Deshmukh Salai, Mylapore Village, Chennai - 28. The petitioner was not given any opportunity to explain his case to the authorities that the allegation of encroachment is sans any basis. In fact, the petitioner has not made any encroachment at all on the aforesaid land, which is purportedly not his land and belongs to the Government. In such view of the matter, the petitioner be given an opportunity to put forward his case before the authorities preceding to taking a final decision as passing such an order which is, in effect, an order of removal.

4. Ms. Karthikaa Ashok, learned Standing Counsel appearing for the respondents, on the other hand, fairly submits that the impugned notice does not disclose as to whether any opportunity of hearing was afforded to the petitioner prior to issuance of the said notice and as such, the impugned notice be treated as show cause notice, affording an opportunity to the petitioner.

5. Recording the fair submission made by the learned Standing Counsel appearing for the respondents, we treat the impugned notice as show cause notice, granting liberty to the petitioner to make a representation and put forth his case within a fortnight. Thereafter, the authorities are entitled to take consequential action on proper inspection of the place in question. On inspection, if it is found that there is encroachment, necessary steps be taken for removal of the same within a period of four weeks from the date of receipt of representation/explanation from the petitioner. Needless to state that an opportunity of hearing be given to the petitioner before passing final orders in the matter.

6. The writ petition stands disposed of with the aforesaid direction and observation. Costs made easy.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

cad

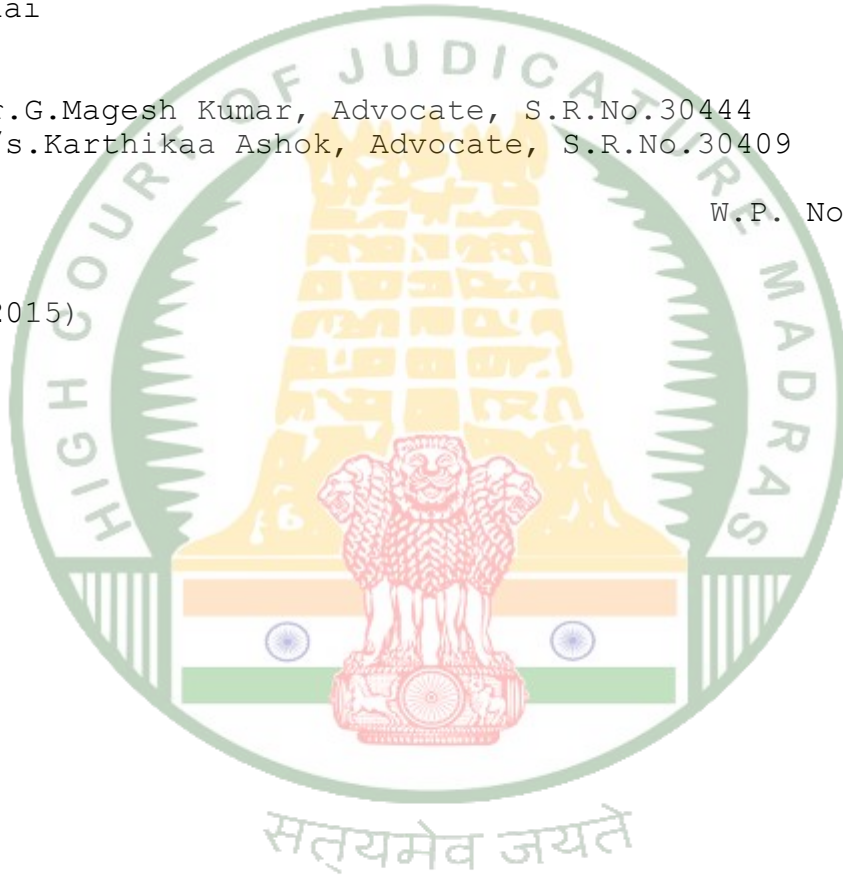
To

1. The Commissioner
O/o the Chennai Corporation
Ripon Building
Chennai
2. The Regional Joint Commissioner - South
Chennai Corporation, Zone 13
Chennai

+1cc to Mr.G.Magesh Kumar, Advocate, S.R.No.30444
+1cc to M/s.Karthikaa Ashok, Advocate, S.R.No.30409

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SR(CO)
CA(06/07/2015)



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