

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2015

CORAM:

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

W.P. No.18915 of 2015
and
M.P. No.1 of 2015

Subramaniam

...Petitioner

vs.

1 The State of Tamil Nadu
represented by its Secretary
Highways and Minor Ports Department
Secretariat
Chennai 600 009

2 The Chief Engineer - Highways
Construction and Maintenance
Chennai 600 005

3 The Divisional Engineer
Highways Department
Namakkal

4 The Assistant Divisional Engineer
Highways Department
Thiruchengode
Namakkal

5 The District Collector
Nakammal District

6 The Municipal Commissioner
Thiruchengode Municipality
Namakkal District

...Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari calling for records pertaining to the impugned order passed in Ku.No.5/15/E.NiVu/ dated 25.05.2015 by the fourth respondent and quash the same.

For petitioner : Mr. K.C. Karl Marx

For RR 1 - 6 : Mr. P.S. Sivashanmugasundaram
Special Government Pleader

ORDER

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

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

2 This writ petition is filed challenging the final order dated 25.05.2015 passed by fourth respondent, in and by which, the petitioner has been asked to remove the encroachment alleged to have been made by him, within a period of seven days from the date of receipt of the said order, failing which, it was informed that the encroachment would be removed by the Department and the costs incurred towards the same would be recovered from the petitioner.

3 One T. Tilakavathi approached this Court in W.P. No.2593 of 2015 impleading the instant petitioner, viz., M. Subramaniam, as a party respondent. Pursuant to the Court's notice, the petitioner herein who was arrayed as respondent no.16 in the said writ petition was represented by a learned counsel. It was informed by the learned Special Government Pleader that a notice was sent to the alleged encroachers on 23.02.2015. The learned counsel for the instant petitioner/16th respondent therein was given an opportunity to put forward his case, as is evident from the order dated 26.02.2015 passed in W.P. No.2593 of 2015. Thereafter, the instant impugned order dated 25.05.2015 came to be passed.

4 Given the above factual position, the petitioner herein is estopped from contending that no opportunity of hearing was afforded to him before the order impugned herein was passed. In such view of the matter, the impugned order dated 25.05.2015 has been passed after affording proper opportunity of hearing to the petitioner and as such, no interference is warranted at this stage.

Resultantly, the writ petition is dismissed. Costs made easy. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

cad

To

- 1 The Secretary
Highways and Minor Ports Department
State of Tamil Nadu
Secretariat, Chennai 600 009
- 2 The Chief Engineer - Highways
Construction and Maintenance
Chennai 600 005
- 3 The Divisional Engineer
Highways Department, Namakkal
- 4 The Assistant Divisional Engineer
Highways Department
Thiruchengode, Namakkal
- 5 The District Collector, Namakkal District
- 6 The Municipal Commissioner
Thiruchengode Municipality
Namakkal District

1 CC to Mr. K.C. Karl Marx, Advocate SR.No. 32335

1 CC to the Government Pleader, SR.No. 32346

W.P. No.18915 of 2015

MP (CO)
PSI (09.07.2015)