

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.20959 of 2015
and M.P.No.1 of 2015

G.Kannan

... Petitioner

Vs.

The Superintending Engineer
Construction Division -1,
A-10, Thiru Vi Ka Nagar,
Industrial Estate, Guindy,
Chennai - 32.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus to forbear the respondent from interfering with the petitioner's peaceful possession and enjoyment over the property bearing S.No.21/1A1, A1, A1, A1, comprised in pata No.872, measuring 1122 sq.ft, situated at Vellanoor village, Avadi, Thiruvallur District.

For Petitioner : Mr.V.Raghavachari

For Respondent : Mr.P.Gunaraj

ORDER

With the consent of the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent, the writ petition is taken up for final disposal.

2. The petitioner claims that out of the property bearing S.No.21/1A1, A1, A1, A1, comprised in patta No.872, situate at Vellanoor village, Avadi, Thiruvallur District, measuring about 2425 sq.ft, the petitioner has purchased 1122 sq.ft on the northern side and claims to be in possession ever since the date of his purchase. The petitioner would further state that to his shock and surprise the respondent started to encroach upon the property for the purpose of erection of pylon/electric tower and in this regard the petitioner has not been put on any notice.

3. The grievance of the petitioner is that in the event of any resistance on the part of the land owner, the respondent shall approach the jurisdictional District collector for getting enter upon

permission to enter the property and without doing so and by taking the law into his hands the respondent is trying to enter upon the property and put up electric pole/pylon and in this regard the petitioner submitted a detailed representation dated 5.7.2015 to the respondent and without disposing the same is making all out efforts to erect a pole/pylon. Aggrieved by the same, the petitioner has come forward with this writ petition.

4. Learned counsel appearing for the petitioner would submit that once the petitioner, being the land owner, resisted the attempt of the respondent to erect electric pole/pylon, it is the mandate of the respondent to enter the property of the petitioner after due permission and without doing so, the respondent is trying to trespass upon the petitioner's land and having left with no other alternative, the petitioner is constrained to approach this Court.

5. Per contra, learned Standing counsel appearing for the respondent has drawn attention of this Court to the letter of consent given by the petitioner to the respondent stating that as per the said letter the petitioner is willing to receive the compensation and therefore it is not open to the petitioner to turn around and take a diametrically opposite stand and prays for dismissal of the writ petition.

6. This Court considered the rival submissions made by the learned counsel appearing on either side and also perused the material placed before this Court.

7. This Court, in the light of the facts and circumstances of the case, without going into the merits of the submissions put forth by the learned counsel for the petitioner and the learned Standing Counsel appearing for the respondent, directs the respondent to consider and pass orders on the petitioner's representation dated 5.7.2015 on merits and in accordance with law after providing the petitioner an opportunity of personal hearing and pass orders within a period of four weeks from the date of receipt of copy of this order. It is also open to the petitioner to approach the jurisdictional District Magistrate/District collector in this regard, who, on receipt of such representation from the petitioner, shall make every endeavour to dispose of the same as expeditiously as possible.

8. The writ petition is disposed of accordingly. However, there is no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

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To

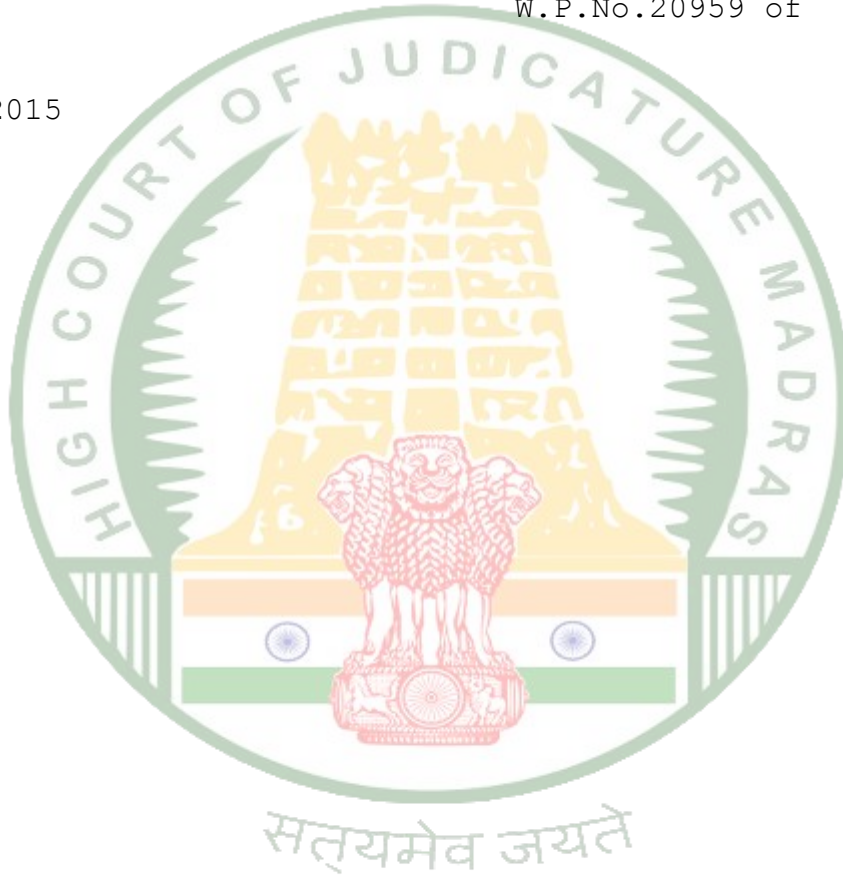
The Superintending Engineer
Construction Division -1,
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1 cc to Mr.P.Gunaraj , Advocate Sr.No.35632

1 cc to Mr.V.Raghavachari , Advocate Sr.No.35488

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ppa (Co)
pmk.27.7.2015



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