IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2015

CORAM:

The Honourable Mr.Justice SATISH K. AGNIHOTRI
AND
The Honourable Mr.Justice K.K.SASIDHARAN

W.P.No.25314 of 2015
& M.P.Nos.1 to 3 of 2015

A. Pasupathy ..Petitioner

-Vs.-

1. The Collector
   Thiruvallur
   Thiruvallur District.

2. The Tahsildar
   Thiruvallur Taluk
   Thiruvallur District.

3. The Assistant Engineer
   Highways Department
   East Division, Thiruvallur
   Thiruvallur District.

4. P.G.Rangaraj

5. The President
   Thamaraipakkam Panchayat
   Thiruvallur Taluk
   Thiruvallur District.
   (R5 impleaded as per order dated
   30.09.2015 in M.P.No.4 of 2015) ..Respondents

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Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records relating to the impugned notice dated 25 July 2015 issued by the third respondent and quash the same and direct the respondents 1 to 3 to forbear from interfering with the peaceful possession of the petitioner's house situate at No.764, Thamizh Colony, Redhills Road, Amanambakkam, Thamaraipakkam Post, Thiruvallur District

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comprised in S.No.212, Amanambakkam Village in any manner whatsoever and direct the respondents 1 to 3 to survey the said land in his presence and issue patta to the petitioner in respect of the said property and further direct the respondents 1 to 3 to pay compensation to the petitioner for the illegal demolition of the shops belonging to the petitioner.

For Petitioner : Mr.P. Manoj Kumar

For Respondents: Mr.N. Sakthivel
Government Advocate

ORDER

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

The petitioner challenges the notice dated 25 July 2015 whereby and whereunder the Highways Department directed the petitioner and others to remove the encroachments, failing which it was indicated that all such encroachments would be removed in accordance with law.

2. The petitioner appears to have put up a thatched house, where he has been residing for the past more than twenty five years. The petitioner is stated to be a coolie. According to the petitioner, he has put up two petty shops in front of his house and is eking his livelihood out of the income received from the shops.

3. While so, the Highways Department demolished the shops owned by twelve families who are residing on the side of Highways on 23 April 2015. Since the petitioner apprehends that he would also be removed, he filed this writ petition challenging the notice dated 25 July 2015.

4. Similar writ petition in W.P.No.27726 of 2015 came up for hearing before this Court on 3 September 2015 and taking into account the contention taken by the petitioner therein that the property belongs to the revenue department and as such the Highways department has no right to evict him, we have given him one week time to make a representation in the nature of explanation to the notice.

5. The third respondent issued the impugned notice on 25 July 2015. The notice is styled as a public notice. It is the case of the petitioner that immediately after issuing notice, the Highways Department evicted the alleged encroachers without passing orders in accordance with the Highways Act. Since opportunity was not given to the petitioner before passing the order to remove the encroachment, we are of the view that reasonable time should be given to submit explanation treating

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the notice dated 25 July 2015 as a show cause notice. The petitioner is given time till 16 October 2015 to submit his explanation.

6. The Assistant Engineer, Highways Department is directed to consider the explanation and pass appropriate orders on merits and as per law.

7. Status quo as on date shall be maintained till the disposal of the matter by the third respondent.

8. The writ petition is disposed of with the above direction. Consequently, the connected MPs are closed. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

Tr/
To

1. The Collector
   Thiruvallur
   Thiruvallur District.

2. The Tahsildar
   Thiruvallur Taluk
   Thiruvallur District.

3. The Assistant Engineer
   Highways Department
   East Division, Thiruvallur
   Thiruvallur District.

4. The President
   Thamaraipakkam Panchayat
   Thiruvallur Taluk
   Thiruvallur District.

+1cc to Mr.C.R. Dhasarathan, Advocate, S.R.No.53430
+1cc to the Government Pleader, S.R.No.53430

GJ(CO)
EU(02/11/2015)

W.P.No.25314 of 2015

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