

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 9/9/2015

C O R A M

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE K.K.SASIDHARAN

W.P. No.27293 of 2015

Abdul Raheem

... Petitioner

Vs

1. The Commissioner
Mahe Municipality
Mahe
Puducherry.
2. The District Collector
Revenue Department
Mahe
Puducherry.
3. Tmt.Thahira
4. Habsath Maniyur

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking for the issuance of a writ of mandamus directing the respondents to take necessary action pursuant to the Notice dated 13/4/2015 under Section 415 (1) of Puducherry Municipalities Act, 1973 and remove the unauthorised encroachment of Municipal lane in R.S.No.91/2 in Parthapayil, Chalakara, Mahe caused by the third and fourth respondents, within a time frame fixed by this Court.

For petitioner : Mr.K.Raja Srinivas

For respondents : Mrs.N.Mala
AGP (Puducherry)
for R.R.1 and 2.

No appearance
for R.R.3 and 4.

WEB COPY

O R D E R
(delivered by SATISH K. AGNIHOTRI, J.,)

With the consent of the parties, the main writ petition is taken up for final disposal.

2. By this petition, the petitioner, seeks a direction to the first and second respondents to take consequential action, pursuant to the Notice dated 13th April, 2015, issued by the first respondent under Sub-Section (1) of Section 415 of the Puducherry Municipalities Act, 1973.

3. Despite service of notice, none has chosen to appear on behalf of the respondents 3 and 4.

4. Mrs.N.Mala, learned Additional Government Pleader (Puducherry), accepted notice on behalf of the first and second respondents on 1st September, 2015, seeking time to get instruction. But, no affidavit has been filed by RR 1 & 2 till date.

5. On a perusal of the eviction Notice dated 13th April, 2015, it is noticed that the third respondent was called upon to show cause on or before 28th April, 2015, as to why action be not taken for removal of the encroachment mentioned therein as under:

"The extent of encroachment by you is as follows:-

(i). Compound wall on the southern side of Municipal lane (R.S.No.91/2), for a length of 39.50 M and width of 0.5 M.

(ii). Earthen encroachment on the southern side of Municipal lane (R.S.No.91/2) for a length of 11.00 M and width of 0.5 M."

6. Similarly, the fourth respondent was also called upon to show cause on or before 28th April, 2015, as to why action be not taken for removal of the encroachment mentioned therein as under:

"The extent of encroachment by you is as follows:-

(i). Compound wall (East to West) on southern side of Municipal lane (R.S.No.91/2), for a length of 15.50 M and width of 0.5 M and

(ii). Compound wall (North to South) on eastern side of Municipal lane (R.S.No.91/2) for a length of 56.00 M and width of 0.40 M."

7. According to the learned counsel for the petitioner, the time given by the Municipality has come to an end long back. The authorities have not deliberately taken consequential action, as required under the provisions of law.

8. As a sequel, we are satisfied that, an immediate action is required to be taken under the provisions of law, as notice had already been issued to the concerned encroachers, who have been arrayed as respondents 3 and 4 herein.

9. Accordingly, the respondent/Commissioner, Mahe Municipality, is directed to take consequential action, within a period of two weeks from the date of receipt of a copy of this order.

10. With the aforesaid direction, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

mvs.

To

1. The Commissioner
Mahe Municipality
Mahe
Puducherry.

2. The District Collector
Revenue Department
Mahe
Puducherry.

+1cc to M/s.K.Raja Srinivas, Advocate, S.R.No.49098

W.P. No.27293 of 2015

MR(CO)
CA(28/09/2015)