

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.09.2015

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI

AND

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

W.P. No.27444 of 2015 and M.P. No.1 of 2015

K. Selvakumar

Petitioner

vs.

- 1 The Regional Director  
National Highways Authority of India  
III Floor  
DP-34, (SP) Industrial Estate  
Guindy, Chennai 600 032
- 2 The Deputy General Manager (T)  
and Project Director  
National Highways Authority of India  
(Ministry of Road Transport and Highways)  
No.7, Kamadhenu Nagar  
Karur 639 001

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari calling for the records relating to the impugned letter no. NHAI / PIU / Karur / NH - 67 / KC-02/Encroachment/2015/596 dated 09.07.2015 on the file of the second respondent and quash the same.

For petitioner

Mr. S. Vinoth Kumar

for Mr. K. Govi Ganesan

ORDER

(made by SATISH K. AGNIHOTRI, J.)

This writ petition is filed assailing the legality and validity of the communication dated 9<sup>th</sup> July 2015 issued by the second respondent, whereby and whereunder, the petitioner has been called upon to remove his hotel named "Aatha Mess" which has encroached the National Highways land by construction of access bridge in front of the said hotel, along the Karur to Coimbatore Section of NH-67 from Km. 218+200 to KM 332 + 600 of NH - 67.

2 The learned counsel for the petitioner submits that the petitioner is a lawful owner of the land in question. By the impugned communication, he has been called upon to remove the structure, without verifying the facts as to ownership and possession of the same and as such, the petitioner cannot be directed to remove the structure from the land in question, which is under his legal ownership.

3 Pursuant to the aforesaid impugned notice, seemingly, the petitioner has made a representation by way of a legal notice on 16<sup>th</sup> July 2015, which is pending consideration. On a perusal of the pleadings and documents placed before us, it does not seem that any show cause notice was given to the petitioner before the impugned communication dated 9<sup>th</sup> July 2015 was sent to him, calling upon him to remove the said illegal construction.

4 Accordingly, we treat the impugned communication of the second respondent as show cause notice and the reply submitted by the petitioner on 16<sup>th</sup> July 2015 as reply to the impugned communication. The authorities are directed to afford an opportunity of personal hearing also to the petitioner before taking a final decision. If on a proper enquiry, it is found that the construction put up by the petitioner is on the National Highways land unauthorisedly and illegally, it is open to the authority to take steps for removal of the same, after affording an opportunity of hearing to him.

5 The writ petition stands disposed of with the above direction and observation. Costs made easy. Connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

WEB COPY

cad

To

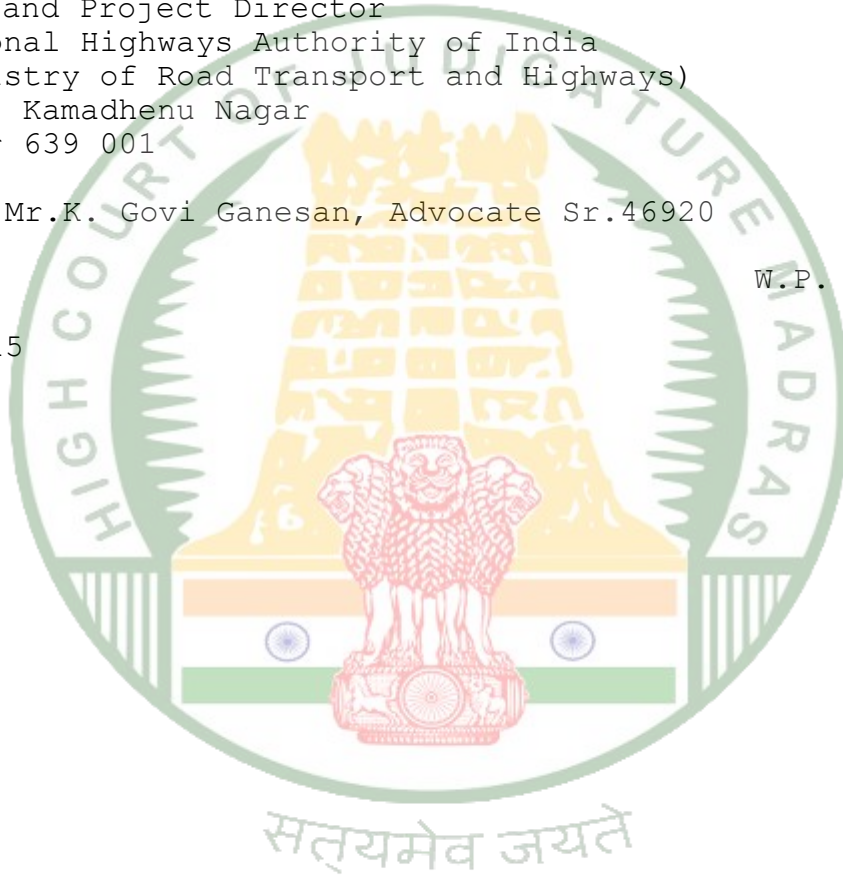
1 The Regional Director  
National Highways Authority of India  
III Floor  
DP-34, (SP) Industrial Estate  
Guindy, Chennai 600 032

2 The Deputy General Manager (T)  
and Project Director  
National Highways Authority of India  
(Ministry of Road Transport and Highways)  
No.7, Kamadhenu Nagar  
Karur 639 001

+ 1 cc to Mr.K. Govi Ganesan, Advocate Sr.46920

W.P. No.27444 of 2015

AK(CO)  
EU 23.09.15



WEB COPY