

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2015

CORAM:

THE HONOURABLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

W.P.No.27726 of 2015
& M.P.Nos.1 to 3 of 2015

Ramjani Bai

... 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. The President
Thamaraipakkam Panchayat
Thiruvallur Taluk
Thiruvallur District.

5. P.G.Rangaraj

... Respondents

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 to forbear from interfering with the peaceful possession of the petitioner's house and shop situate at No.744, Thamizh Colony, Redhills Road, Amanambakkam, Thamaraipakkam Post, Thiruvallur

District comprised in S.No.212, Amanambakkam Village in any manner whatsoever and direct the respondents to survey the said land in the presence of the petitioner and issue patta to the petitioner in respect of the said property.

For Petitioner : Mr.P. Manoj Kumar

For Respondent : Mr.P.S. Sivashanmughasundaram
Spl. G.P. for RR1 to 3

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 put up a thatched house where he has been residing for the past more than twenty five years. The petitioner is running a meat stall to eke out his livelihood. 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.

3. When the writ petition was taken up on 3 September 2015, taking into account the contention taken by the petitioner 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's time to make a representation in the nature of explanation to the notice.

4. The Assistant Engineer, Highways Department, Thiruvallur filed a counter affidavit wherein it was indicated that the disputed land in Survey No.212 absolutely belongs to the State Highways Department. The land occupied by the petitioner is required for junction improvements and widening of road. According to the Highways department notice was issued under Section 28(ii) of the Tamil Nadu Highways Act to all the encroachers including the writ petitioner. It was further contended that the District Collector, Thiruvallur instructed the Highways Department to give one week time to the encroachers to remove their belongings.

5. The third respondent issued the impugned notice on 25 July 2015. The notice is styled as public notice. It is the case of the petitioner that immediately after issuing the 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 the notice dated 25 July 2015 as a show cause notice. The petitioner is given time till 28 September 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 IV)

//True Copy//

Sub Assistant Registrar

Tr/

To

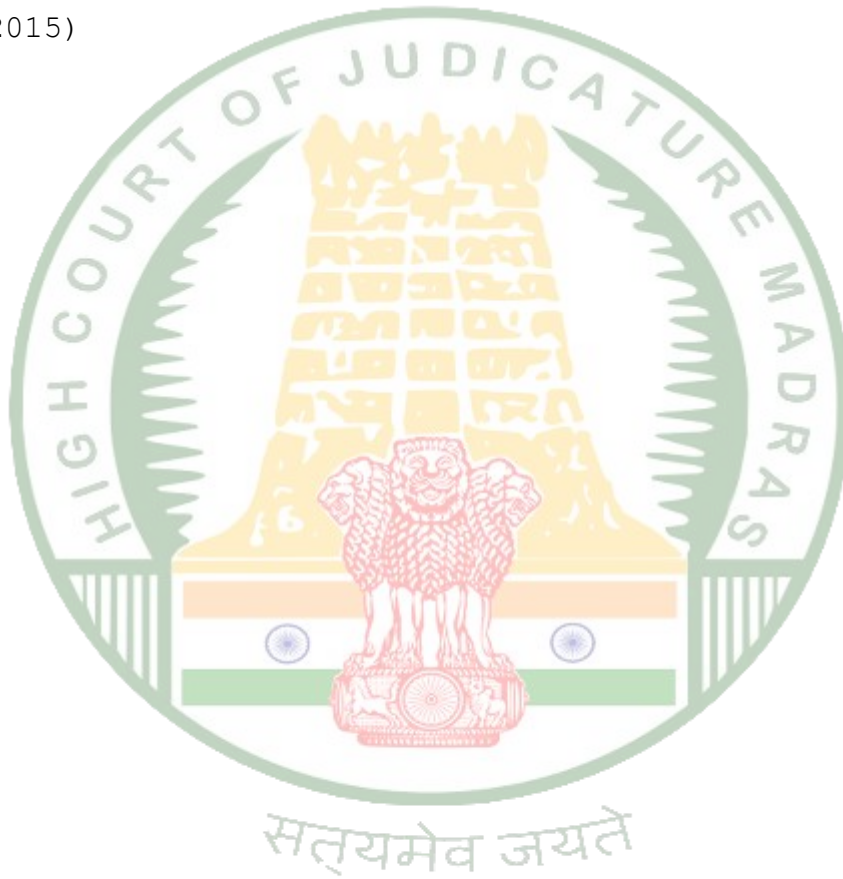
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+lcc to the Government Pleader, S.R.No.50490

W.P.No.27726 of 2015

AK (CO)
CA(30/09/2015)



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