

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.09.2015

CORAM:

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

W.P. No.28399 of 2015

1. G. Periyakannaiyan
2. MadhammalPetitioners
- vs.
- 1 The District Collector,
Dharmapuri District, Dharmapuri.
2 The Tahsildhar,
Pennagaram Taluk, Dharmapuri District.
3 The Divisional Engineer,
Highways Department,
Dharmapuri District,
Dharmapuri.
4 The Assistant Divisional
Engineer, (Highways Department) Construction
and Maintenance, Pennagaram,
Dharmapuri District.
5 Inspector of Police,
Pennagaram Police Station,
Dharmapuri District.Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari to call for the records pertaining to the order passed by the 4th respondent dated 21.5.2015 made in Na. Ka. No.15/2015/E.NI.UO to quash the same.

For petitioners

Mr. C. Prabakaran

For respondents

Mrs. A. Srijayanthi
Special Government Pleader

ORDER

(Order of the Court was delivered by SATISH K. AGNIHOTRI, J.)

Mrs. A. Srijyanthi, learned Special Government Pleader, accepts notice for the respondents. With the consent of the learned counsel on either side, this writ petition is taken up for final disposal, at the admission stage itself.

2 Questioning the legality and validity of the notice dated 21st May 2015 issued by the fourth respondent, whereunder, the petitioners, who are husband and wife, have been called upon to remove the encroachment made on Mangarai Road, Pennagaram Taluk, the petitioners have come with the instant writ petition.

3 Learned counsel appearing for the petitioners submits that the petitioners are in occupation of the land in question on the basis of the revenue documents granted by the authorities. It is also contended that the said notice, which is in the nature of eviction order, does not disclose the details of the specific encroachment allegedly made thereon. Thus, the impugned notice deserves to be quashed.

4. Learned Special Government Pleader appearing for the respondents fairly submits that the impugned notice is not clear about the specification of encroachment, if any, and as such, the impugned notice may be treated as a show cause notice affording an opportunity of hearing to the petitioners and thereafter, the authorities may be given liberty to take consequential action, if there is any encroachment.

5. Having considered all the aspects, as aforesaid, we are of the considered view that this impugned letter/ notice be treated as a show cause notice calling upon the petitioners to submit their reply/ explanation in respect of the land in question, within a period of two weeks from the date of receipt of a copy of this order. It is obligatory for the respondents to consider the first petitioner's representation dated 1st June 2015 on its own merits and in accordance with law and if necessary, take consequential action of removal thereafter, if encroachment is found thereon. It is made clear that till final orders are passed on the said representation, status quo in respect of the property in question, as obtained today, shall be maintained.

6. With the above direction and observation, this writ petition stands disposed of. Costs made easy. Connected miscellaneous petitions are closed.

-sd/-

ASSISTANT REGISTRAR

/ TRUE COPY /

SUB-ASSISTANT REGISTRAR

RA

To

- 1 The District Collector,
Dharmapuri District, Dharmapuri.
- 2 The Tahsildhar,
Pennagaram Taluk, Dharmapuri District.
- 3 The Divisional Engineer,
Highways Department,
Dharmapuri District,
Dharmapuri.
- 4 The Assistant Divisional
Engineer, (Highways Department) Construction
and Maintenance, Pennagaram,
Dharmapuri District.
- 5 Inspector of Police,
Pennagaram Police Station,
Dharmapuri District.

+1 CC to MR.C.PRABAKARAN ADVOCATE. SR.NO. 49226

+1 CC to Govt.Pleader. SR.NO.49283

W.P. No.28399 of 2015

CO-LRS
JD 07/10/2015

सत्यमेव जयते

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