

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21/9/2015

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.28905 of 2015 and
M.P.NOS.1 AND 2 OF 2015

Navaneethammal Petitioner

Vs

1. The District Collector
Vellore District
Vellore.
2. The Divisional Engineer
O/o The Divisional Engineer (H) Office
Construction and Maintenance
Highways Department
Vaniyambadi
Vellore District.
3. The Assistant Divisional Engineer
O/o The Assistant Divisional Engineer (H) Office
Construction and Maintenance
Highways Department
Gudiyatham
Vellore District 632 602. Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking for the issuance of a writ of certiorarified mandamus to call for all relevant records relating to the impugned order issued in Na.Ka.No.100/2015/Ou dated 21/8/2015 passed by the third respondent herein and quash the same as arbitrary, unreasonable, improper, illegal against the established their rown rules and regulations and thereby directing the respondents their men, agents, servants, subordinates or officials not to interfere with the peaceful possession and enjoyment of the petitioner, demolish or evict the petitioner from the petitioner's own land and residential house situated in Old No.3 New No.8 Palamaneri Road, Kondasamudram, Gudiyatham Taluk, Vellore District 603 632, comprised in T.S.No.987/2 Pallikonda Palamaneri Highways Road, Ward N2, Block No.10, Gudiyatham Town and Taluk, Vellore District in an extent of 0.2.0 cents.

For petitioner : Mr.K.Venkatramani
Senior Counsel
for Mr.S.Srinivasan

For respondents: Mr.P.S.Sivashanmugasundaram
Special Government Pleader

ORDER

(delivered by SATISH K.AGNIHOTRI,J.,)

With the consent of the learned Senior counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents, the writ petition is taken up for final disposal.

2 Questioning the legality and validity of the notice / order dated 21st August, 2015 under Section 28 (ii) of the Tamil Nadu Government Highways Act, 2001, whereunder the petitioner, having constructed a house in T.S.No.987, Pallikonda-Palamaneri Highways, has been directed to vacate the area in question within 30 days on or before 21st September, 2015, this petition has been filed.

3 The case of the petitioner before us is that pursuant to the notice dated 22nd July, 2015 under the provisions of the Act, the petitioner has submitted a detailed representation on the same day. The impugned order has been passed without adverting to the averments made in the representation. Thus, the authorities be directed to consider the issue afresh and take a conscious, reasoned and proper decision.

4 The learned Special Government Pleader appearing for the respondents, in his usual fairness, would submit that on perusal of the order sought to be impugned, it appears that reasons for taking decisions have not been recorded and as such, the authorities be granted liberty to take fresh decision on affording fresh opportunity of hearing, including personal hearing to the petitioner.

5 In view of the foregoings, having examined the aforestated submissions made by the learned counsel for the parties, we are of the considered view that the impugned order shall remain suspended till final decision on consideration of the representation, as aforestated, is taken. The authorities are required to advert to each and every averment / objection made by the petitioner in her representation. The aforestated exercise shall be completed within a period of four weeks from the date of receipt of copy of the order.

6. The writ petition stands disposed of accordingly. No costs. Connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

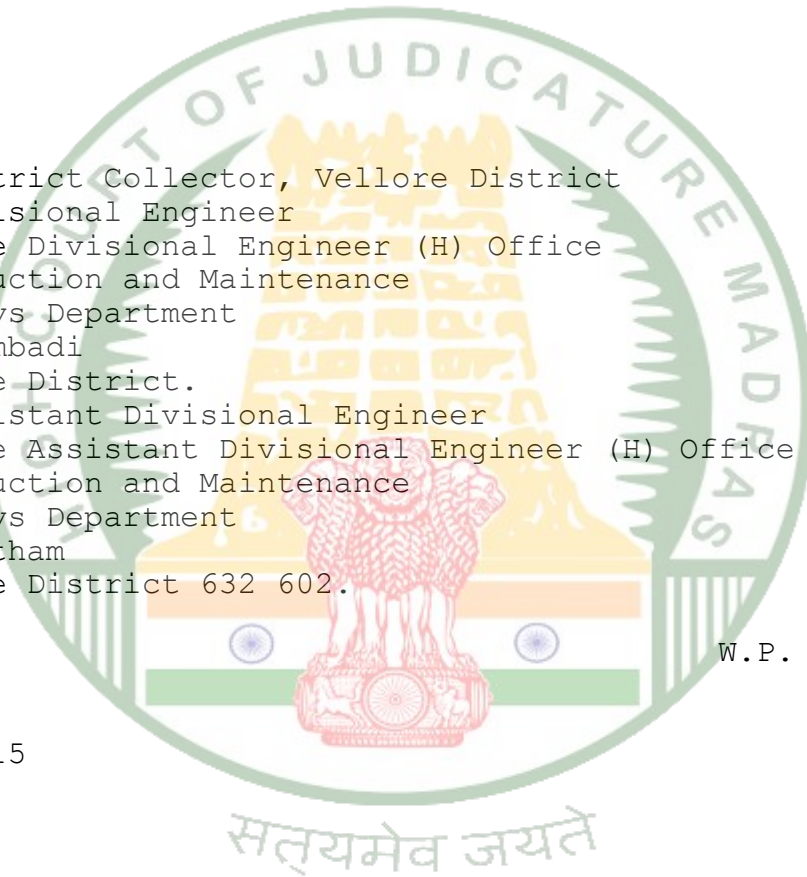
mvs/vvk

To

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