

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2015

CORAM:

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

W.P. No.34554 of 2015  
and  
M.P. No.1 of 2015

V.S. Pushparaj ... Petitioner  
vs.

1. The Commissioner  
Corporation of Erode  
Erode District
  2. The Assistant Commissioner (In-Charge)  
Zone No.3, Corporation of Erode  
Erode District
- ... 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 proceedings of the second respondent dated 07.10.2015 in Na.Ka.No.2753/2015/E1 and quash the same.

For petitioner : Mr. K. Sukumaran

For respondents : Mr. M. Rajamathivanan  
Standing Counsel

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

Mr. M. Rajamathivanan, learned Standing Counsel, accepts notice for the respondents. With consent, the writ petition is taken up for final disposal, at the admission stage itself.

2. Impugning the legality and justifiability of the notice dated 7<sup>th</sup> instant, whereby and whereunder, the petitioner has been called upon to remove the alleged encroachment made in

Ward No.31, R.S. No.158/3 and 159/4 within Erode Municipal Ward No.3, the petitioner has come up with the instant writ petition.

3. According to the learned counsel for the petitioner, the impugned notice has been issued by way of a final order, without affording an opportunity of hearing to the petitioner to explain his case that he is in lawful possession of the property in question.

4. We have examined the impugned notice and also other materials available on record.

5. On a bare perusal of the impugned notice, it is not evident as to whether any opportunity was afforded to the petitioner by way of show cause notice on an earlier point of time. It is eloquent that the decision to remove the encroachment was taken on the basis of some proceedings initiated by the Erode District Review Committee.

6. Be that as it may, we are not inclined to express any opinion on the merits of the case, at this stage. However, the principle of natural justice requires that if an order visiting with civil consequences is passed, the incumbent is entitled to a basic show cause notice to enable him to put forward his defence.

7. Accordingly, the impugned notice be treated as show cause notice, calling upon the petitioner to submit his reply, if any, to be filed within two weeks from today. On receipt of the petitioner's reply, the authorities are at liberty to consider the same, adverting to each and every objection raised by the petitioner and take a consequential decision, if need be.

8. The writ petition stands disposed of with the above observations. Costs made easy. Connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

cad

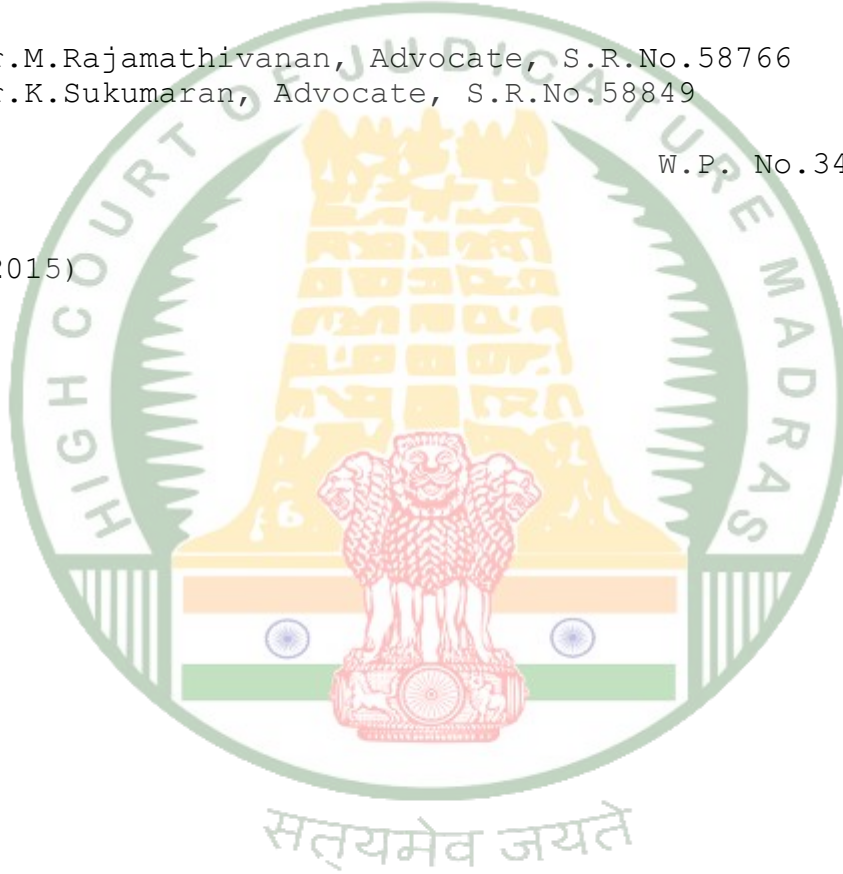
To

1. The Commissioner  
Corporation of Erode  
Erode District
2. The Assistant Commissioner (In-Charge)  
Zone No.3  
Corporation of Erode  
Erode District

+1cc to Mr.M.Rajamathivanan, Advocate, S.R.No.58766  
+1cc to Mr.K.Sukumaran, Advocate, S.R.No.58849

W.P. No.34554 of 2015

SKV(CO)  
CA(05/11/2015)



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