

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2015

CORAM:

THE HONOURABLE MR. JUSTICE SATISH K. AGNIHOTRI
AND
THE HONOURABLE MR. JUSTICE M. VENUGOPAL

W.P.No.5074 of 2015

S.P.Arivazhagan

... Petitioner

Vs

1. The Commissioner,
Avadi Municipality,
Avadi, Chennai.53.

2. F.W.H. Senguttuvan

... Respondents

Petition filed under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus calling for the records of the 1st respondent notice in Na.Ka.No.4322/14/F1 dated 27.10.2014 and quash the same with respect to the directions issued to the petitioner only and consequently direct the 1st respondent to demolish the illegal constructions made by the 2nd respondent in the Municipal Door No.1 Nagamman Koil Street, Thandarai Pattabhiram, Chennai-600 072.

For petitioner : Mr. J. Saravanavel

For respondents : Mr. R.A.S.Senthilvel
Addl. Govt. Pleader -R1

ORDER

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

Mr. R.A.S. Senthilvel, learned Additional Government Pleader accepts notice on behalf of the first respondent.

2. The petitioner seeks to quash the impugned notice dated 27.10.2014 wherein the petitioner was directed to remove the septic tank alleged to have been constructed in school street.

3. The learned Additional Government Pleaer appearing for the first respondent submits that the impugned notice dated 27.10.2014 directing the petitioner to remove the encroachment/unauthorised construction in respect of the land in question was duly issued after proper enquiry.

4. This submission is denied by the learned counsel for the petitioner. He also submits that since no proper enquiry was held pursuant to the notice dated 27.10.2014, the petitioner has made a representation on 04.11.2014.

5. In view of that, without going into the merits of the case as to whether the petitioner was afforded proper opportunity of hearing, before issuing the impugned notice directing the petitioner to remove the encroachment, or not, we direct the first respondent to consider the aforestated representation of the petitioner on its own merit, in accordance with law and pass fresh order of removal if it is found that the encroachment of unauthorised construction exists..

6. The writ petition is disposed of accordingly. Consequently, M.P. No. 1 of 2015 is closed. No costs.

Sd/-
Asst. Registrar

/true copy/

Sub Asst. Registrar.

Ra

To

1. The Commissioner,
Avadi Municipality,
Avadi, Chennai.53.

+1cc to M/s.J.Saravanavel, Advocate, S.R.No.10612
+1cc to the Government Pleader, S.R.No.10792

W.P.No.5074 of 2015

SAI (CO)
CA(09/03/2015)