

WP No.24378 of 2010

The Hon`ble The CHIEF JUSTICE
and
The Hon`ble Mr Justice T. S. SIVAGNANAM

K.SIVAKUMAR
S/O.KANAGARATHINAM, OTHAMPATTU VILLAGE,
GINGEE TALUK, VILLUPURAM DIST.

Vs

THE CHIEF ENGINEER GENERAL
HIGHWAYS DEPARTMENT, CHENNAI. and 11
others.

The compliance report now filed by the fourth respondent/Assistant Divisional Engineer leaves no doubt that the earlier compliance report filed stating that all encroachments had been removed was false. It is only after the order dated 15.04.2015 wherein we had clearly stated that if the affidavit of the 4th respondent was found to be false, proceedings for perjury would be taken, that action was taken on 06.05.2015 to remove what is categorised as remaining encroachments, and now apology is said to be made for the same.

2. We are not prima facie satisfied with the explanation of the Officer as it was an endeavour to obtain a closure report for compliance from this Court by filing a false affidavit. As to what proceedings we will initiate against him, we defer for the time being in view of certain other developments -- the other developments are that according to the petitioner, his house was partly demolished for expansion of the village road, which is a vindictive action. It is stated that this action has been taken without any notice and according to the petitioner, this land continues to vest with the petitioner and his family in the Revenue records. It is the further case of the petitioner that this land was sought to be acquired for the expansion, but proceedings have been filed, the fate of which has not been disclosed. He further states that he had received no compensation for this acquisition of land. All this is stated on instructions from the petitioner, who is present in court. On the other hand, learned Government Pleader on instructions from the 4th respondent, states that there are no acquisition proceedings in question, but that demarcation was done for expansion of the village road and it was found that the petitioner had encroached upon Government land.

3. On the latter aspect, we would require both petitioner and 4th respondent to set out all facts on affidavit as we have little faith on the oral submission of the 4th respondent in view of the history is sketched out herein above. The 4th respondent must categorically state as to when the decision was taken to expand the village road, whether the land already vested with the Government or it had been acquired and if acquired, whether proceedings qua their claims were concluded, whether any notice was issued to the petitioner even as an encroacher, when the decision in file was taken to proceed for demarcation of the part of the structure of the petitioner, whether other structures were demolished on the same day, any remaining encroachment there etc., The records in this behalf be kept available by

the 4th respondent.

4. The affidavits of both sides be filed within three weeks. A separate affidavit also be filed by the 5th respondent qua the revenue records of the land over which the structure of the petitioner had been removed.

List for further compliance on 16.07.2015.

The petitioner and fourth respondent again to remain present in Court.

[CJ] [T S S J]

15/06/2015

KSR