

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2016

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.P. Nos.11021 to 11024 of 2016
and
W.M.P. Nos.9592 to 9595 of 2016

A. Augustinraj ...Petitioner in W.P.11021 of 2016
S.Daniel ...Petitioner in W.P.11022 of 2016
S.Anthonysamy ...Petitioner in W.P.11023 of 2016
S.David ...Petitioner in W.P.11024 of 2016

Vs.

- 1.The District Collector,
Cuddalore District
- 2.The Tahsildar
Virudhachalam, Cuddalore District
- 3.The Divisional Engineer
Highways Department
Cuddalore, Cuddalore District
- 4.The Divisional Engineer
National Highways
Kurankuchavadi
Omalur Main Road, Salem - 4
- 5.The Assistant Divisional Engineer
National Highways
Virudhachalam - Section - 1
National Highways Complex
Virudhachalam, Cuddalore District
- 6.The Junior Engineer
National Highways
Virudhachalam - Section - 1
National Highways Complex
Virudhachalam, Cuddalore District

7.R. Padmavathi
Retail Dealer Outlet
Essar Oil Ltd.
Virudhachalam Main Road
Romapuri, Neyveli - 2
Cuddalore District

... Respondents

Writ Petitions filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records relevant to the impugned proceedings in No.23/E.Va.Aa/2016 dated 10.03.2016 issued by the fifth respondent and quash the same as illegal, improper, unreasonable and arbitrary against the natural justice and consequently, direct the first and fourth respondent to pass appropriate orders on the representations dated 03.03.2016.

For petitioners : Mr. A. Rajesh Kanna
in all the WPs for Mr. T. Sundaravadanam

For RR 1 to 6 : Mr. P.S. Sivashanmugasundaram
in all the WPs Special Government Pleader

ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

Mr. P.S. Sivashanmugasundaram, learned Special Government Pleader, accepts notice for the official respondents.

2. These writ petitions are filed calling in question the legality and validity of the final notices dated 10 March 2016 issued by the fifth respondent, whereby and whereunder, the petitioners have been directed to remove the encroachments made by them in the Cuddalore-Virudhachalam-Salem National Highway.

3. From a perusal of records placed before us, it is manifest that by notice dated 25 February 2016 issued by the sixth respondent, the petitioners were directed to remove the encroachments made by them in the National Highway in question. By the said notice, the petitioners were further directed to submit their objection, if any, by 07 March 2016. Pursuant thereto, the petitioners submitted their appeals dated 03 March 2016. The fifth respondent, after having considered their appeals, vide the impugned orders, rejected their appeals and directed them to remove the encroachments made by them.

4. It is also relevant to point out at this juncture that in the writ petition being W.P. No.212 of 2015 filed at the instance of the seventh respondent herein, wherein, a writ of mandamus was sought, for removal of the encroachments in the National Highways in question, this very Bench held that if the authorities have come to a conclusion that there is a clear encroachment in the National Highways, they shall take immediate action in accordance with law for removal of encroachment, after affording an opportunity of hearing to the alleged encroachers.

5. In sync with the aforesaid order passed by this Court, the fifth respondent, after having considered the appeals preferred by the petitioner and after finding that the petitioners are encroachers, directed them to remove the encroachments. We are of the considered view that this finding of fact cannot be interfered with in exercise of our extraordinary jurisdiction under Article 226 of the Constitution of India.

6. The Supreme Court, in Punjab Roadways, Moga, through its General Manager v. Punja Sahib Bus & Transport Company and others¹, while examining the scope of judicial review on finding of facts rendered by a Tribunal or a quasi judicial authority, held as under:

"37. Article 226 of the Constitution of India confers extraordinary jurisdiction on the High Court to issue high prerogative writs for enforcement of fundamental rights or any other purpose, the powers are of course wide and expansive but not to be exercised as an appellate authority re-appreciating the finding of facts recorded by a tribunal or an authority exercising quasi-judicial functions. The power is highly discretionary and supervisory in nature. Grant of stage carriage permits is primarily a statutory function to be discharged by the RTA exercising powers under Section 72 of the Act and not by the High Court exercising the constitutional powers under Article 226 or 227 of the Constitution of India.

38. A writ court seldom interferes with the orders passed by such authorities exercising quasi-judicial functions, unless there is serious procedural illegality or irregularity or they have acted in excess of their jurisdiction. If there is any dispute on the proper implementation of the ratio

1 (2010) 5 SCC 235

or inclusion or exclusion of any route or area in the Scheme, the RTA can always examine the same, if it is moved. The direction given by the High Court to the RTA to grant regular permits to the private operators, is therefore, patently illegal."

7. In view of the above categorical pronouncement made by the Supreme Court and also considering the facts and circumstances of the case, we find no merit in the writ petitions.

Resultantly, the writ petitions stand dismissed. No costs. Connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

cad

To

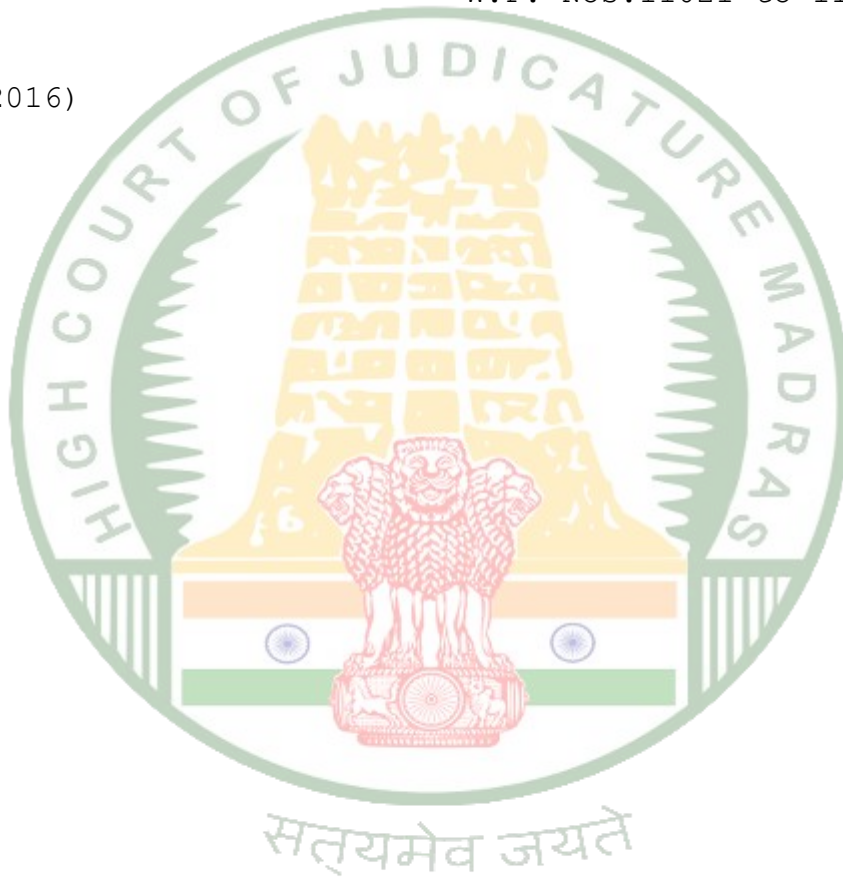
- 1.The District Collector,
Cuddalore District
- 2.The Tahsildar
Virudhachalam,
Cuddalore District
- 3.The Divisional Engineer
Highways Department
Cuddalore, Cuddalore District
- 4.The Divisional Engineer
National Highways
Kurankuchavadi
Omalur Main Road, Salem - 4
- 5.The Assistant Divisional Engineer
National Highways
Virudhachalam - Section - 1
National Highways Complex
Virudhachalam,
Cuddalore District

6.The Junior Engineer
National Highways
Virudhachalam - Section - 1
National Highways Complex
Virudhachalam,
Cuddalore District

+1cc to the Government Pleader, S.R.No.19173

W.P. Nos.11021 to 11024 of 2016

MG (CO)
CA(12/04/2016)



WEB COPY