

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2016

CORAM:

THE HON'BLE MR. JUSTICE SATISH K.AGNIHOTRI
and
THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

W.P. No.16128 of 2016 and W.M.P. Nos.13931 and 13932 of 2016

Revathy

Petitioner

vs.

1 The Assistant Director
Highways Department
Government of Tamil Nadu
Cuddalore District

2 The District Collector
Cuddalore District

3 The Assistant Divisional Engineer
Highways Department
Government of Tamil Nadu
Thittakudi Taluk
Cuddalore District

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari, calling for the records pertaining to the impugned order dated 21.04.2016 passed by the third respondent and quash the same.

For petitioner Mr. R. Sankarasubbu
for Mr. M. Velmurugan

For respondents Mrs. A. Srijyanthi
Special Government Pleader

ORDER

(delivered by SATISH K.AGNIHOTRI, J.)

Mrs. A. Srijyanthi, learned Special Government Pleader, accepts notice for respondents 1 to 3. With consent, the writ petition is taken up for final disposal, at the admission stage itself.

2 This writ petition is filed calling in question the justifiability of the notice dated 21 April 2016 issued by the

third respondent under Sections 34 and 35 of the Tamil Nadu Highways Act, 2001, whereby and whereunder, the petitioner has been called upon to remove the encroachment allegedly made by him unauthorisedly at T. Agaram Village in Pennadam - Vridhachalam Road, belonging to the Highways Department, by 25 April 2016.

3 The learned counsel for the petitioner submits that the impugned notice, by way of order, has been served on the petitioner, without affording an opportunity of hearing to him. The petitioner is in lawful occupation of the property in question for the last several years, on the basis of legal documents. Thus, the petitioner cannot be asked to remove the alleged encroachment, without being afforded an opportunity to place the documents in support of his claim and also without being afforded an opportunity of personal hearing.

4 The learned Special Government Pleader fairly submits that on a perusal of the impugned notice, it does not appear that any opportunity was given earlier to the petitioner.

5 In view of the above submission of the learned Special Government Pleader, the impugned notice is directed to be treated as show cause notice. Further, since the petitioner has already submitted a representation dated 22 April 2016, in response to the impugned notice, which is annexed to the typed set of papers, the authorities shall examine the same and also afford an opportunity of personal hearing to the petitioner enabling him to produce all the relevant records, before final order is passed. Accordingly, the petitioner shall appear before the third respondent on 05 May 2016 and present his case, along with documents relied on by him. Thereafter, the authorities are granted two weeks time to consider the petitioner's case on merits and in accordance with law and take necessary action, if need be.

The writ petition stands disposed of with the above directions. Costs made easy. Connected W.M.Ps. are closed.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

cad

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To

1 The Assistant Director
Highways Department
Government of Tamil Nadu
Cuddalore District

2 The District Collector
Cuddalore District

3 The Assistant Divisional Engineer
Highways Department
Government of Tamil Nadu
Thittakudi Taluk
Cuddalore District

1 cc to Mr.M. Velmurugan, Advocate, Sr. 27590
1 cc to Government Pleader, Sr. 27923

W.P. No.16128 of 2016

JSV (CO)
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