

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.09.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.31263 of 2016
and
WMP.No.27137 of 2016

G.Kapali

...Petitioner

Vs.

State rep. by

1.District Collector,
Kanchipuram District,
Kanchipuram.

2.Divisional Engineer,
Highways Department,
Chennai Metropolitan City Development Scheme,
Division -IV, Chennai- 600 016.

3.Assistant Divisional Engineer,
Highways Department,
Construction and Maintenance Office,
Tambaram Sub Division,
Chennai- 600 042.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the impugned notice proceedings No.Ku.No.149/2016-249/Medavakkam/ e.va.tho.aa dated 24.06.2016 of the third respondent and quash the same and direct the respondents to develop and properly make use of the existing spacious road without affecting petitioner's patta land and the building.

For Petitioner : Mr.M.J.Sundar

For Respondents : Mr.P.S.Sivashanmuga Sundaram, SGP

ORDER

(Order of the Court was made by HULUVADI G. RAMESH,J.)

With the consent of both sides, the writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner has filed this writ petition to quash the notice dated 24.06.2016 issued by the third respondent and direct the respondents to develop and properly make use of the existing spacious road without affecting petitioner's patta land and the building.

3. The case of the petitioner is that he has been living along with his family members for several years in the landed house at No.10/81, Velachery Main Road, Medavakkam, Chennai, which was originally classified as 'grama natham'. Later on, patta was granted in respect of the said property in the year 2013. While so, the third respondent issued a notice dated 24.06.2016 stating that the petitioner is living in the encroached land and hence, the officials are going to remove the encroachment for the purpose of constructing a flyover and widening the road. On receipt of the same, the petitioner submitted his reply dated 03.07.2016 enclosing the necessary documents, to the respondent. Despite the same, the respondents are trying to demolish the building and evict the petitioner from the above said property. Therefore, the petitioner has come forward with the present writ petition for the aforesaid relief.

4. While according to the learned counsel for the petitioner, the petitioner's land is a patta land and there is no encroachment made by the petitioner, Mr.P.S.Sivashanmugasundaram, learned Special Government Pleader, who accepts notice on behalf of the respondents, submitted that the petitioner has encroached the land in question and hence, notice has been issued as per law.

5. Considering the submissions made on either side, this Court deems it fit to direct the respondents to survey the petitioner's patta land in the presence of the petitioner and take appropriate steps for removing the encroachment, if any, after following due process of law.

6. Accordingly, the writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

To

1.The District Collector,
Kanchipuram District,
Kanchipuram.

2.The Divisional Engineer,
Highways Department,
Chennai Metropolitan City Development Scheme,
Division -IV, Chennai- 600 016.

3.The Assistant Divisional Engineer,
Highways Department,
Construction and Maintenance Office,
Tambaram Sub Division,
Chennai- 600 042.

+1 cc to Govt.Pleader,sr.51306

+1 cc to Mr.M.J.Sundar,advocate,sr.51127

gr(co)
krd 28/9

W.P.No.31263 of 2016



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