

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2016

CORAM:

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

WRIT PETITION No.43398 of 2016

R.Sridhar

... Petitioner

vs.

1. The Divisional Engineer,
Chennai City Roads Division,
Chennai 600 015.
2. The Divisional Engineer,
Highways Department,
Chennai Metropolitan Development Plan,
Division IV,
Chennai 600 016.
3. The 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 for the issuance of a writ of mandamus, directing the 3rd respondent to take appropriate action on the petitioner's representation dated 01.12.2016.

For Petitioner : Mr.Sankar Ramasamy

For Respondents : Mr.S.Rajeswaran

Special Government Pleader

ORDER

The petitioner has come up with this Writ Petition seeking a direction to the 3rd respondent to take appropriate action on his representation dated 01.12.2016.

2. According to the petitioner, he is the absolute owner of the property situated at Velachery Main Road, Medavakkam, Chennai, measuring an extent of 615 sq. ft. together with building thereon bearing Plot No.138, approved by LMDA/DTP No.263/1973, comprised in Punjai Survey No.399/3, Patta No.2420,

as per patta New Survey No.399/1A2 of Medavakkam Village, Sholinganallur Taluk. Originally, Plot No.138 was measuring an extent of 2420 sq. ft. and subsequently, a portion of 1825 sq. ft. of land in Plot No.138 was acquired by the Highways Department in the year 1986 itself. Thereafter, the balance 615 sq. ft. of land comprised in Punjai Survey No.399/3 was purchased by the petitioner from one P.Dharmarajan, and the same was registered as Document No.2818/2003, dated 20.06.2003 with the office of the District Registrar, Chennai South.

3. It is the case of the petitioner that patta has been issued in his name by the Deputy Tahsildar, Tambaram in Patta No.2420, dated 29.06.2005 and the patta new Survey Number is 399/1A2 of Medavakkam Village, Sholinganallur Taluk, Kancheepuram District. Thereafter, the petitioner borrowed loan from the Bank and constructed a building thereon, obtained electricity connection, water connection and is paying property tax to the competent authority regularly. While so, the 3rd respondent issued a notice under Rule 28(2)(ii) of Tamil Nadu Highways Act, 2001, dated 15.02.2016 stating that the petitioner encroached upon a portion of the Highways land to an extent of 146.4 sq. mtrs. in Survey No.399 at Medavakkam Village and that it should be removed within seven days from the date of receipt of notice.

4. After receipt of the 3rd respondent's impugned notice, the petitioner removed the encroachments on the Highway land in front of his building and handed over the encumbrance free site to the 3rd respondent herein. As per the measurement mentioned in the impugned notice dated 15.02.2016, the 3rd respondent made some marking in front of his patta land. The grievance of the petitioner is that the workers under the control of the 3rd respondent are trying to extend the drain-cum-footpath construction work by intruding in his patta land. Immediately, the petitioner went to the 3rd respondent's Office and explained the facts of the construction work in front of his building and gave a detailed representation on 01.12.2016. Aggrieved by the inaction of the respondents and having no other alternative remedy, the petitioner is before this Court.

5. Learned counsel for the petitioner submitted that the petitioner's grievance would be redressed if his representation dated 01.12.2016 is directed to be considered by the respondents, within a stipulated period.

6. Heard the learned counsel on either side and perused the material documents available on record.

7. Considering the facts and circumstances of the case and without going into the merits of the case, this Court directs

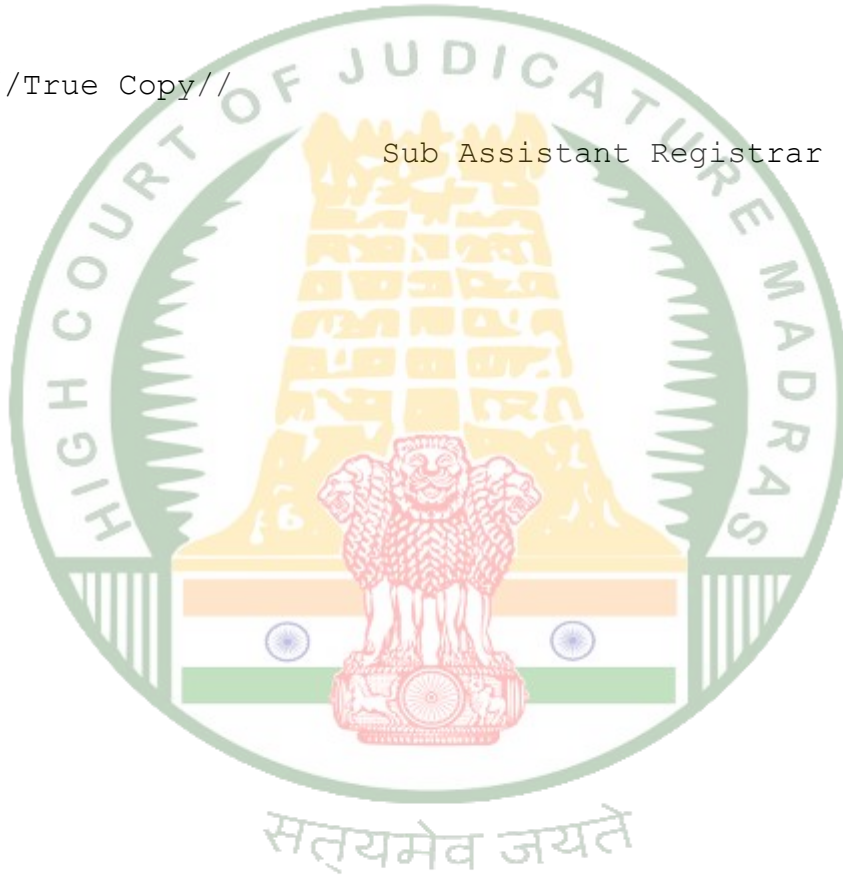
the 3rd respondent to consider the petitioner's representation dated 01.12.2016 on merits and in accordance with law, and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order.

This Writ Petition is disposed of with the above direction. No costs. Consequently, connected W.M.P.No.37257 of 2016 is closed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar



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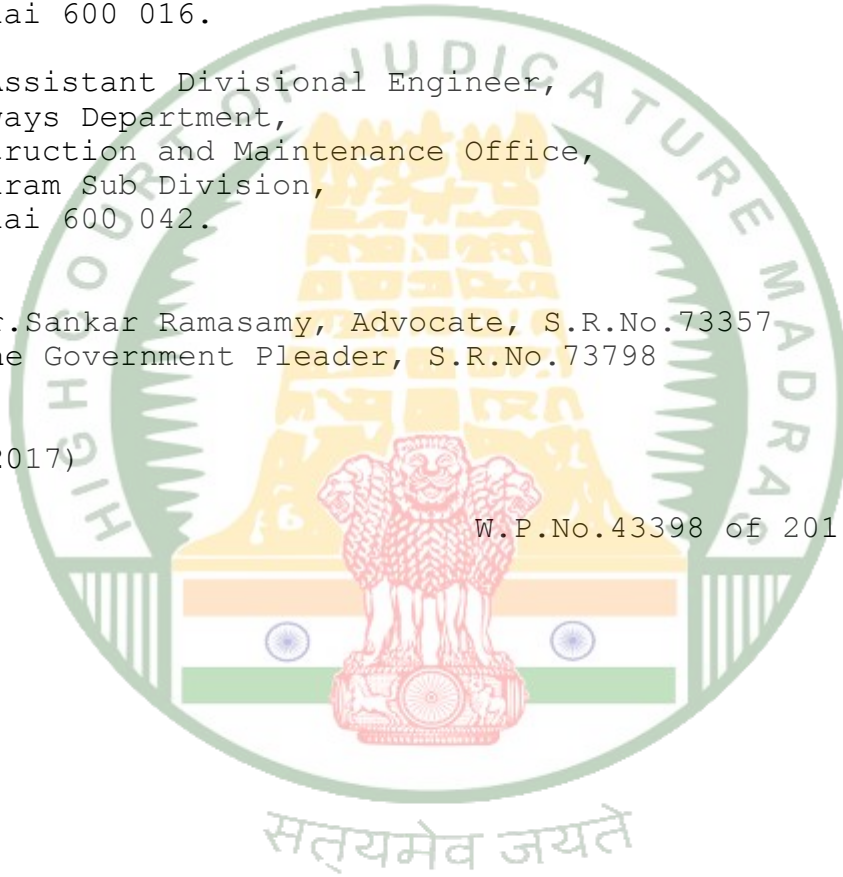
To:

1. The Divisional Engineer,
Chennai City Roads Division,
Chennai 600 015.
2. The Divisional Engineer,
Highways Department,
Chennai Metropolitan Development Plan,
Division IV,
Chennai 600 016.
3. The Assistant Divisional Engineer,
Highways Department,
Construction and Maintenance Office,
Tambaram Sub Division,
Chennai 600 042.

+1cc to Mr.Sankar Ramasamy, Advocate, S.R.No.73357
+1cc to the Government Pleader, S.R.No.73798

RJ(CO)
md(31/01/2017)

W.P.No.43398 of 2016



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