

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 21.06.2016

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.9757 of 2016
and W.M.P.Nos.8747 and 8748 of 2016

M.Ponnusamy

..Petitioner

Versus

- 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

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for a writ of Certiorarified Mandamus, calling for the records of the 3rd respondent pertaining to his proceedings vide Notice No.149/2016-162/Medavakkam/E-Va-tho-a/dated 15.02.2016 and quash the same and consequently direct the respondents to make proper survey in respect of the land situated in Survey No.204 at Velachery Main Road, Medavakkam Village, Chennai - 600 100.

For Petitioner : Mr.Sankar Ramasamy

For Respondents: Mr.R.Govindasamy
Special Government Pleader

ORDER

By consent, the writ petition is taken up for final disposal.

2.The petitioner claims that he is the absolute owner of the property admeasuring an extent of 658 sq.ft. in Survey No.204, as per Patta No.108, sub division Survey No.436/17 situated in Velachery Main Road, Medavakkam Village, Chennai - 600 100 and claims to have purchased the same from Murugesan and four others by way of a registered sale deed bearing Document No.1739/1991 dated 27.06.1991 registered on the file of the District Registrar, South Madras, Chennai and claims to be in possession and enjoyment of the same.

3.The grievance expressed by the petitioner is that all of a sudden, the third respondent has issued the impugned notice dated 15.02.2016 under Rule 28(2)(ii) of the Tamil Nadu Highways Act, 2001 calling upon the petitioner to remove the encroachment in the form of concrete building on the encroached portion of the land admeasuring an extent of 79.2 sq.mtr in Survey No.204 at Medavakkam Village, Chennai - 600 100 within seven days from the date of receipt of the notice, failing which, threatening to take appropriate action. Challenging the legality of the notice, the petitioner has filed this writ petition.

4.The learned counsel appearing for the petitioner submitted that the petitioner is the owner of the land in question through a registered sale deed dated 27.06.1991 and the reasons assigned in the impugned notice dated 15.02.2016 is not backed by any materials and prays for interference.

5.Per contra, Mr.R.Govindasamy, learned Special Government Pleader would submit that since the land in question belongs to the Highways Department, the impugned notice came to be issued. He would also submit that the petitioner has also submitted a representation/response dated 18.02.2016 and it will be considered in accordance with law.

6.This Court has considered the rival submissions.

7.In the considered opinion, the impugned notice is in tune with Rule 28(2)(ii) of the Tamil Nadu Highways Act, for which, the petitioner has also submitted his response in the form of representation dated 18.02.2016. Thus, in the light of the facts and circumstances, this Court directs the third respondent to consider and dispose of the petitioner's representation dated 18.02.2016 in accordance with law after providing an opportunity of personal hearing to the petitioner and pass orders within a period of eight weeks from the date of receipt of a copy of this order and till then, the third respondent is directed to defer the decision to dispossess and evict the petitioner from the land in question.

8.The writ petition is disposed of with the above direction.
No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

cse

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, Advocate, S.R.No.34843
+1cc to the Government Pleader, S.R.No.34698

MG(CO)
EU(20/07/2016)

सत्यमेव जयते

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