

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:08.08.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE N.SESHASAYEE

W.P.No.21090/2017 & WMP.Nos.21965&21966/2017

L.Shakibegum

Vs

Petitioner

The Assistant Divisional Engineer
[Highways], Construction and Maintenance
Mettur, Salem District.

Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorarified mandamus calling for the records of the respondent issuing of notice vide proceedings dated 13.06.2017 under section 28 of the Tamil Nadu Highways Act, 2001, quash the same and direct the respondent not to evict the petitioner from premises which is situated in TS.No.5, Old Block No.48, Salem Camp area, Mettur Taluk, Salem District total to the extent of 1479 sq.ft.

For Petitioner : Mr.M.Senthilkumar

For Respondent : Mr.P.Sanjay Gandhi, AGP

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

By consent, the writ petition is taken up for final disposal. Mr.P.Sanjay Gandhi, learned Additional Government Pleader accepts notice on behalf of the respondent.

2 The petitioner claims to be a resident of Door No.98, "Malaipadhai", Salem Camp Post, Mettur, Salem District and according to her, she has put up a superstructure having asbestos sheet roof on the land admeasuring to an extent of 1479 sq.ft., in TS.No.5, Old Block No.48, and the said property is also subjected to statutory levy by the Mettur Municipality and she has also obtained electricity connection. The petitioner would further aver that one Mr.V.Gunasekaran, S/O.Vellaiyan, had purchased a property belonging to Mettur

Pierdcell Company through auction and at his instigation, the possession of the petitioner is sought to be disturbed and the officials are also conniving with him. It is the specific case of the petitioner that the superstructure put up by her is not causing any hindrance for free movement of traffic and as such, the proposes action taken by the 1st respondent to evict / dispossess the petitioner is not in consonance with the provisions of law and challenging the legality of the notice issued by the respondent under section 28 of the Tamil Nadu Highways Act, 2001, the petitioner came forward to file the present writ petition.

3. Heard the learned counsel for the petitioner and Mr.P.Sanjay Gandhi, learned Additional Government Pleader appearing for the respondent.

4. The petitioner in her representation dated 31.03.2017 addressed to the Special Chief Engineer, as well as to the respondent would admit that the land in which she has put up the superstructure belongs to the Highways Department ; but her specific case is that it is not causing any hindrance for free movement of traffic and it is an unobjectionable encroachment. Be that as it may, the petitioner in response to the impugned notice dated 13.06.2017, has submitted her response by means of a representation dated 21.06.2017.

5. The proviso to section 28 [2] of the Tamil Nadu Highways Act, 2007, also contemplates that any representation received within the time limit, shall be considered by the authority or the officer concerned before passing the final orders.

6. In the light of the said statutory provision, this Court directs the respondent to consider the representation of the petitioner dated 21.06.2017 by granting an opportunity of personal hearing to the petitioner or her authorised representative and thereafter, dispose of the same on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner and till such time, shall defer further proceedings in terms of the impugned notice dated 13.06.2017.

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

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

The Assistant Divisional Engineer
[Highways], Construction and Maintenance

Mettur, Salem District.

+1cc to Mr.M.Senthil Kumar, Advocate, S.R.No.57036

+1cc to the Government Pleader, S.R.No.57946

WP.No.21090/2017

KGK (CO)
GN (28/08/2017)



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