

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2017

CORAM

THE HON'BLE MS. INDIRA BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE M.SUNDAR

W.P.No.14184 of 2017

Geetha .. Petitioner

Vs

1 The District Collector
Vellore District, Vellore.

2 The Tahsildar
Katpadi Taluk, Vellore District.

3 The Divisional Engineer
Operation and Maintenance
Highways Department
Vellore, Vellore District.

4 The Sub Divisional Engineer
Operation and Maintenance
Highways Department
Wallaja, Vellore District.

5 The Junior Engineer
Operation and Maintenance
Highways Department
Wallaja, Vellore District.

.. Respondents

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a writ of mandamus forbearing the respondents from evicting or interfering or disturbing with the peaceful possession and enjoyment of the petitioner's residential property situated at Door No. 5/140, Ponnai Main Road, Lalapettai, Katpadi Taluk, Vellore District, except by following due process of law.

For Petitioner : Mr.A.Rajesh Kanna

For Respondents : Mr.R.Vijayakumar
Addl. Government Pleader

ORDER

(Order of the Court was made by M.Sundar,J.)

It is submitted before us that the petitioner is in occupation of 3 Cents of land situated at Door No. 5/140, Ponnai Main Road, Lalapettai, Katpadi Taluk, Vellore District.

2. It is not in dispute that the petitioner is not the owner of the land. The petitioner does not have title to the land. The petitioner does not have patta either.

3. The prayer in the writ petition is to mandamus the respondents not to evict the petitioner de hors the due process of law.

4. We are not inclined to issue a sweeping and broad mandamus of that nature owing to the reasons which we set out in the paragraphs infra.

5. We find from the typed set of papers placed before us by the petitioner that the office of the third respondent (Assistant Divisional Engineer, Highways, Ka(Ma)Pa, Wallajah, to be specific) has issued a notice dated 2.5.2017 bearing reference Summons No.288/2016/Jr.Gr.Asst. This notice has been served by affixture on one Mrs.Sabiya Bee.

6. From the averments of the writ petitioner in the affidavit, particularly paragraph (5) of the writ affidavit, it is evident that the writ petitioner has purchased the said property from Mrs.Sabiya Bee.

7. As the writ petitioner admits that it is government land, we wonder how such a sale could have taken place. However, we do not go into that aspect in the light of the order which we are passing in the instant petition.

8. With regard to the above said notice dated 2.5.2017 bearing reference Summons No.288/2016/Jr.Gr.Asst., based on the submissions made by Mr.R.Vijayakumar, learned Additional Government Pleader, who accepts notice on behalf of all the official respondents, it emerges that it is effectively a notice under Section 28(2)(ii) of the Tamil Nadu Highways Act, 2001. The said position is not disputed by the State Counsel.

9. We notice from Section 28(2)(ii) of the Tamil Nadu Highways Act, 2001 that once a notice is issued, the noticee shall file a reply/ representation within seven days from the date of receipt of the notice and the authorities shall consider the same and pass final orders.

10. Now that the writ petitioner does have the notice, the same shall be treated as notice served on the writ petitioner and the writ petitioner shall be treated as noticee. It is open to the writ petitioner to give reply/representation as provided under Section 28(2)(ii) of the Tamil Nadu Highways Act, 2001 within seven days from today and the authorities shall consider the same and pass orders. Thereafter, subject to the orders the authorities may pass, it is open to the authorities to proceed further in the matter in accordance with law.

The writ petition is disposed of accordingly. No costs. Consequently, W.M.P.No.15381 of 2017 is closed.

Sd/-
Deputy Registrar

/true copy/

Sub Asst. Registrar

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To:

- 1 The District Collector
Vellore District, Vellore.
- 2 The Tahsildar
Katpadi Taluk, Vellore District.
- 3 The Divisional Engineer
Operation and Maintenance
Highways Department
Vellore, Vellore District.
- 4 The Sub Divisional Engineer
Operation and Maintenance
Highways Department
Wallaja, Vellore District.

5 The Junior Engineer
Operation and Maintenance
Highways Department
Wallaja, Vellore District.

+1cc to Mr.A.Rajeshkanna, Advocate in sr.no.41087

W.P.No.14184 of 2017

SVI (CO)
NR 22/06/2017



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