

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.10.2017

CORAM

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

W.P.No.14498 of 2017
and W.M.P.No.15728 of 2017

Ammasai

... Petitioner

Vs.

The Assistant Engineer, PWD,
Canal No.1, Vettaikaranpudhur,
Pollachi, Coimbatore District.

... Respondent

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the entire records relating to the proceedings in reference letter No.UoPo/Vepu/Ko-C3/-/2017, dated 16.05.2017 passed by the Respondent.

For Petitioner : Mr. S.Gunalan

For Respondent : Mr.A.N.Thambidurai
Special Government Pleader

ORDER

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

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

2. The petitioner claims to be a resident of New Arijana Colony, Odayakulam, Pollachi, Coimbatore District, in respect S.F.Nos.936/1B & 937/1B, Odayakulam Village and the petitioner would further aver that the Tahsildhar, Pollachi has issued patta No.480/1401 in Site No.62 in New SF No.1512 & Old SF Nos.936/1B & 937/1B, Odayakulam Village, admeasuring to an extent of 00162 Sq.mts. The Village Administrative Officer through Natham land scheme has also confirmed the Adangal extract of Natham land scheme and disclosed the fact that the extract of the same has also been signed by the Village Administrative Officer.

3. The learned counsel appearing for the petitioner would submit that to the shock and surprise, all of a sudden, the respondent has issued the impugned notice dated 16.05.2017,

alleging the petitioner had encroached upon the water body and put up a concrete house and other superstructures and the said notice is bereft of any material particulars such as the survey number, the extent of encroached land etc., and hence prays for appropriate orders.

4. Per contra, Mr.A.N.Thambidurai, learned special Government Pleader appearing for the respondent would submit that the land has been classified as water channel and as such, action has been taken to remove the encroachment on the water body and prays for dismissal of this writ petition.

5. This Court has considered the rival submission and also perused the materials placed before it.

6. A perusal of the impugned notice would disclose that it is bereft of any material particulars as to the survey number of the land, detailed extent of land and deviation in construction on the part of the petitioner and therefore, the petitioner has been deprived of effective alternative remedy to give reply to the said notice and hence, on the sole ground the impugned order warrants interference.

7. In the result, the writ petition is partly allowed and the impugned notice dated 16.05.2017 is set aside and the respondent is at liberty to send a fresh notice quoting the relevant provisions of law on which the action is sought to be taken and also indicate the survey number and the extent of the land in possession and occupation of the petitioner, within a period of four weeks from the date of receipt of copy of this order and upon receipt of the same, the petitioner is at liberty to submit his representation / response along with the relevant authenticated documents within a further period of four weeks thereafter and the respondent upon receipt of the same, shall consider and dispose of the response/representation to be submitted by the petitioner and pass orders on merits and in accordance with within a further period of six weeks thereafter and communicate the decision taken, to the petitioner and till such time, it is made clear that till the disposal of the representation submitted by the petitioner, the petitioner shall not commit any further encroachment and shall not create any 3rd party right in respect of the land in question. No costs. Consequently the connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

rka/smn

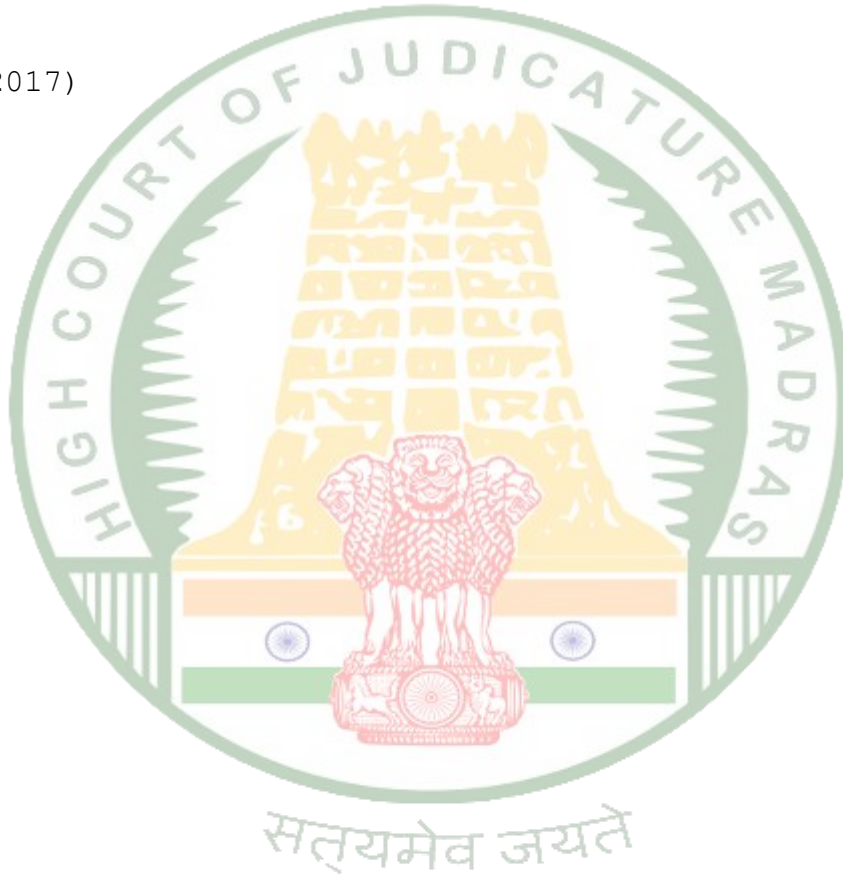
To

The Assistant Engineer, PWD,
Canal No.1, Vettaikaranpudhur,
Pollachi, Coimbatore District.

+lcc to the Government Pleader, S.R.No.72874

W.P.No.14498 of 2017

AD(CO)
CA(16/11/2017)



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