

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE M.SUNDAR

W.P.No.15219 of 2017
&
WMP.Nos.16508 & 16509 of 2017

V.Gowtham

... Petitioner

Vs

The Assistant Divisional Engineer
[C&M] State Highways, South Sub Division,
Coimbatore-18.

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorarified mandamus to call for the records relating to the order passed by the respondent in its impugned order dated 19.05.2017 and quash the same and direct the respondent to grant renewal of permission to carry on the business of the petitioner.

For Petitioner : Ms.Mathuvanthi Mathavan

For Respondent : Mr.R.Vijayakumar,
Additional Government Pleader

ORDER

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

By consent, the writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner is a licensee under the Tamil Nadu Tea Plantation Corporation [TANTEA] and he was granted permission to put up a Bunk Shop to sell the products of TANTEA. It is the case of the petitioner that the license period had expired and he has also applied for renewal and pending disposal of the same, he was shocked and surprised to receive the impugned notice issued by the respondent pointing out that he was issued with temporary license only till 31.12.2015 and no extension of time was granted by the respondent and the petitioner was called upon to vacate the encroached area within a period of one week, i.e., on or before 05.06.2017 and he was also given opportunity to submit his objection within a period of three days from the receipt of the notice ; otherwise the encroachments will be evicted on

15.06.2017. The petitioner, challenging the legality of the said notice has filed the present writ petition.

3. The learned counsel for the petitioner would submit that the petitioner is eking out his livelihood by running a Bunk Shop for which license has been given by TANTEA and for renewal of the license, an application is also pending. In the event of the impugned notice allowed to be implemented or enforced, the petitioner and his family will be put to extreme hardship and difficulty and prays for appropriate orders.

4. Per contra, Mr.R.Vijayakumar, learned Additional Government Pleader who accepts notice on behalf of the respondent would contend that admittedly, the period of license granted by TANTEA to the petitioner to run the Bunk Shop had already expired and since the respondent found that an encroachment has been made to an extent of 100 sq.ft., of land, notice has been issued and the petitioner has also been afforded with an opportunity to offer his explanation and as and when the submits his representation/explanation, it will be considered in accordance with law and appropriate orders will be passed.

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

6. In the impugned notice, the respondent has indicated that the petitioner has to submit his objection within a period of three days from the date of receipt of the notice and the petitioner is yet to respond to the said notice.

7. In the light of the submissions made by the learned counsel for the petitioner coupled with the facts and circumstances, this Court permits the petitioner to submit his response / explanation to the respondent within a period of two weeks from the date of receipt of a copy of this order and the respondent, upon receipt of the same, is directed to afford an opportunity of personal hearing to the petitioner and pass orders on merits and in accordance with law within a further period of three weeks thereafter and communicate the decision taken, to the petitioner and till such time, the respondent shall not disturb the possession of the petitioner in respect of the said Bunk Shop.

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

Sd/-
Assistant Registrar(CS VII)

//True Copy//

AP

To

The Assistant Divisional Engineer
[C&M] State Highways, South Sub Division,
Coimbatore-18.

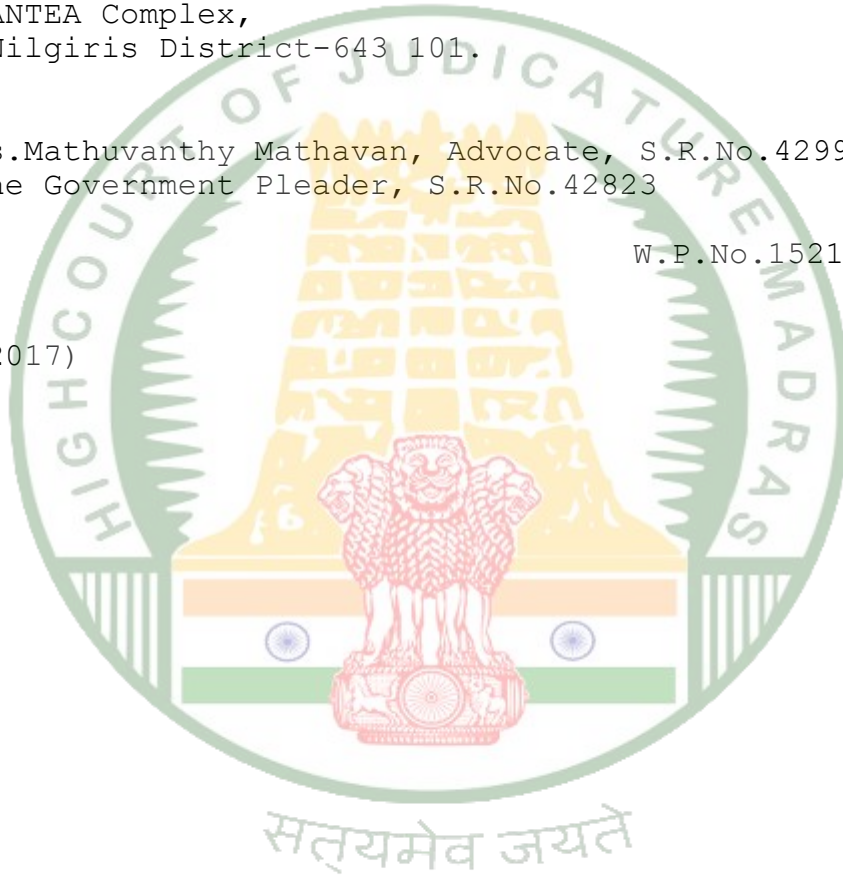
Copy to:-

The Divisional Manager, [Sales and Marketing]
TANTEA, TANTEA Complex,
Coonoor, Nilgiris District-643 101.

+1cc to Ms.Mathuvanthi Mathavan, Advocate, S.R.No.42996
+1cc to the Government Pleader, S.R.No.42823

W.P.No.15219 of 2017

SVI(CO)
CA(20/06/2017)



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