

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2017

CORAM

THE HON'BLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE M.SUNDAR

W.P.No.18656 of 2016

T.Balakrishnan

... Petitioner

Vs.

1. The District Collector
Thiruvallur District
Thiruvallur.
2. The Divisional Engineer
Highways Department
Construction and Maintenance
Chennai Metropolitan Roads
Saidapet, Chennai-600 015.
3. The Assistant Divisional Engineer
Highways Department
Construction and Maintenance
Metropolitan Road, Sub Division-I
Saidapet, Chennai-600 015.
4. The Assistant Engineer
Highways Department
Construction and Maintenance
Chennai Metropolitan Roads
Sub Division-III, Saidapet
Chennai-600 015.
5. P.Munusamy
6. P.Alamelu
7. P.Subramani
8. The Additional Director General of Police
CBCID, Chennai-8.
(Respondents 5 to 8 impleaded
as per order dated 14.6.2016)

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a writ of Certiorari calling for the records of the 4th respondent's notice under Reference No.01/2016-17/A.E, dated 13.05.2016 and to quash the same as illegal and invalid.

For Petitioner

: Mr.Ashok Menon

For Respondents

: Mr.M.K.Subramanian
Government Pleader
for respondents 1 to 4 & 8

No appearance
for respondents 5 to 7

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

The petitioner had assailed the memorandum dated 13.5.2016 issued by the Chennai Metropolitan Roads Division-II calling upon the petitioner to remove himself from what was alleged to be an encroachment on the land owned by the Highways Department, failing which the department would have to remove the encroachment. It is the case of the petitioner that he is a valid title holder.

2. On perusal of the material on record, we issued notice and there was sufficient material to prima facie suggest that the transaction in question was fraudulent in which collusion of authorities concerned looked apparent since the pattas could not have been issued without their complicity. We had impleaded the investigating authority concerned as a party, apart from the other private parties. However, in view of the situation, we had directed status quo to be maintained. We may note that on the land in question a motor cycle garage is being run.

3. The Deputy Superintendent of Police, CB-CID, Kancheepuram, has handed over a report in the Court which shows complicity of private parties and Government officers in fabricating government records and issuing pattas. It is thus stated that since case has already been registered by the Crime Branch in Crime No.182 of 2011 on 6.10.2011 and the same was being investigated by the Chennai City CCB, the offences committed by Government authorities and other private individuals may also be investigated in the case. We order accordingly.

4. The learned Government Pleader states that the relevant documents will be accordingly forwarded and on completion of investigation a charge sheet will be filed. He requests for one month's time, which we hereby grant.

5. For the purposes of this writ petition, it is sufficient to note that the investigations have shown complicity of the previous owners as well as the petitioner and as the criminal justice system will take care of the proceedings in pursuance thereto, there can be no question of providing protection to the petitioner in such a situation, especially under Article 226 of the Constitution of India. Land grabbing is something which needs to be put down with a firm hand and that too by creating documents.

6. We, thus, dismiss the writ petition and vacate the interim orders. However, we grant the petitioner fifteen days time to himself remove the encroachment, failing which the respondent authorities would proceed in terms of the impugned notice. No costs. Consequently, W.M.P.Nos.16323 of 2016 and 1042 of 2017 are dismissed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sasi

To:

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Thiruvallur District
Thiruvallur.
2. The Divisional Engineer
Highways Department
Construction and Maintenance
Chennai Metropolitan Roads
Saidapet, Chennai-600 015.
3. The Assistant Divisional Engineer
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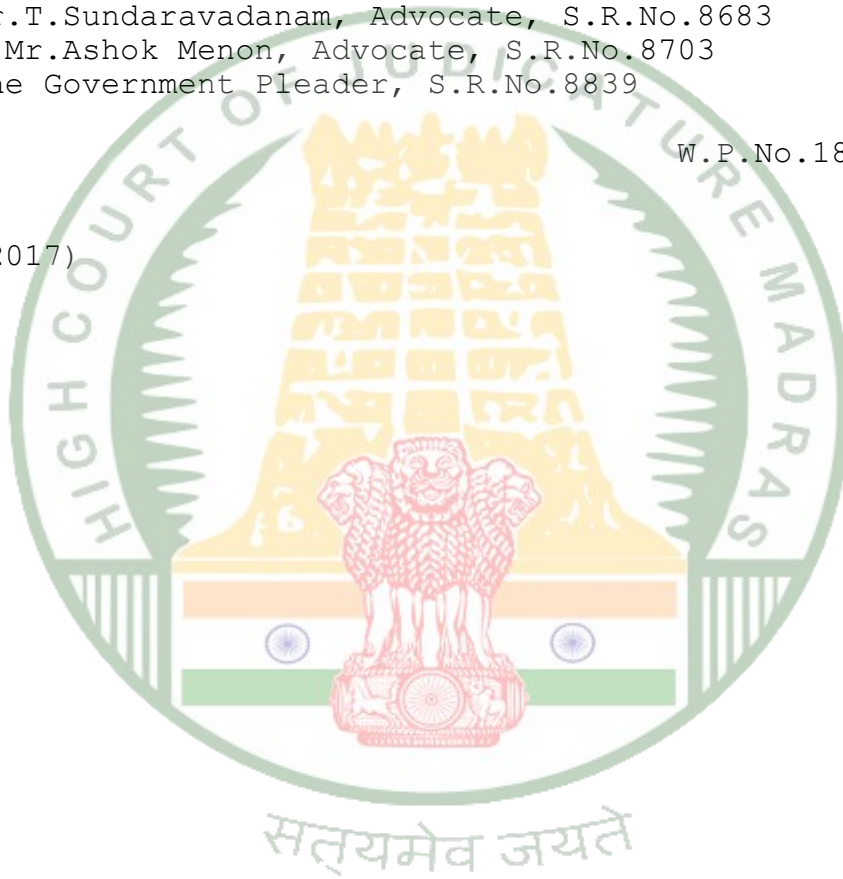
4. The Assistant Engineer
Highways Department
Construction and Maintenance
Chennai Metropolitan Roads
Sub Division-III, Saidapet
Chennai-600 015.

5. The Additional Director General of Police
CBCID, Chennai-8.

+1cc to Mr.T.Sundaravadanam, Advocate, S.R.No.8683
+2cc's to Mr.Ashok Menon, Advocate, S.R.No.8703
+1cc to the Government Pleader, S.R.No.8839

W.P.No.18656 of 2016

UG(CO)
CA(20/02/2017)



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