

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:19.07.2017

CORAM:

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

W.P.No.16698/2017 & WMP.Nos.18077 & 18078/2017

T.Kannan

..Petitioner

Vs

The Assistant Divisional Engineer
Highways Department, Highways Office
Sriperumpudhur.

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorari calling for the records pertaining to the order of eviction dated 23.06.2016 made in Proceedings Nil, on the file of the respondent and to quash the same.

For Petitioner : Mr.P.Mathivanan
For Respondent : Mr.A.N.Thambidurai, Spl.GP

ORDER

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

By consent, the writ petition is taken up for final disposal. Mr.A.N.Thambidurai, learned Special Government Pleader accepts notice on behalf of the respondent.

2 The learned counsel for the petitioner would submit that the petitioner belongs to lower income group/below poverty line and in order to eke out his livelihood, he is preparing tea and mini tiffin and selling the same by putting up a small shop below Marmalang Bridge, Vandalur and according to him, he has no other source of income and he and his family are totally depending upon the said meager income. The grievance expressed by the petitioner is that all of a sudden, the respondent has issued the impugned notice dated 23.06.2016 calling upon the encroachers on the road side of Marmalang Bridge-Irumbuliyur-Vandalur-Mudichur-Oragadam-Walajahbad Road [SH-48] - from Kilometre 30/4 to 30/8 within a period of seven days from the date of receipt of the said notice, failing which, action will be taken to remove the encroachment by 30.06.2017.

3 When the writ petition was listed for admission on 03.07.2017, taking note of the submission of the learned

counsel for the petitioner that the said notice does not contain any provision and that it has not been addressed to any particular person, this Court has directed Mrs.Vasudha Thiagarajan, learned Additional Government Pleader to get instructions.

4 When the matter is listed today, Mr.A.N.Thambidurai, learned Special Government Pleader would submit that the respondent has issued a fresh notice dated 18.07.2017 under section 28[iii] of the Tamil Nadu Highways Act, 2001, calling upon the petitioner to show cause as to why the encroachment should not be removed within seven days from the date of receipt of the notice and in the light of the said development, nothing survives for adjudication in this writ petition and prays for dismissal of the writ petition.

5 In response to the said submission, Mr.P.Mathivanan, learned counsel for the petitioner would submit that the petitioner may be permitted to submit his response to the said notice and till the said representation is considered and disposed of, the further proceedings in terms of the said notice dated 18.07.2017 may be deferred.

6 The Court has carefully considered the rival submissions and also perused the materials placed before this Court.

7 In the light of the above facts and circumstances, the petitioner is at liberty to submit his response to the notice dated 18.07.2017 sent by the respondent under section 28[iii] of the Tamil Nadu Highways Act, 2001, 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 consider the said representation on merits and in accordance with law and pass appropriate orders within a further period of four weeks thereafter and till such time, shall defer further decision in terms of the said notice dated 18.07.2017.

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

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

The Assistant Divisional Engineer
Highways Department, Highways Office
Sriperumbudur.

+ 1 cc to Mr.V. Ravikumar, Advocate Sr.51058
+ 1 cc to Government Pleader Sr.50976

WP.No.16698/2017

IV(CO)
EU 19/07/2017



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