

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2017

CORAM

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

W.P.No.44728 of 2016

M.Vijaya

... Petitioner

Vs

1. The National Highways Authority of India
III Floor, DP 34 (SP), Industrial Estate
Guindy, Chennai - 600 032.

2. The Project Director
National Highways Authority of India
III Floor, DP 34 (SP), Industrial Estate
Guindy, Chennai - 600 032.

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a writ of Mandamus forbearing the respondents from taking any action under the Control of National Highways (Land and Traffic) Act, 2002 against land bearing Plot No.247, Jasmin Nagar, Surapattu Village, Shanmugapuram, Madhavaram Taluk, Tiruvallur District.

For Petitioner : Mr.Sriram
for M/s.A.S.Kailasam and
Associates

For Respondents : Mr.Richardson Wilson
for M/s.P.Wilson Associates

ORDER

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

The dispute appears to be that the petitioner claims to have purchased Plot No.247, comprised in S.No.194/2, Patta No.144, New Survey No.194/2A, Jasmin Nagar, Surapattu Village, Shanmugapuram, Madhavaram Taluk, Tiruvallur District, in pursuance of a registered sale deed dated 30.6.2014, while according to the National Highways Authority of India/first respondent, the land vests with the Highways Department.

2. The respondent authorities have issued a notice under sub-section (2) of Section 26 of the Control of National Highways (Land and Traffic) Act, 2002 on 26.11.2016. Replies to this have been sent on 29.11.2016 and 20.12.2016.

3. The learned counsel for the first respondent states that the prayer in the writ petition is all-encompassing, which in effect seeks to obstruct the process envisaged under the said Act and is further premature as no order adverse to the petitioner has been passed till date. He submits that the competent authority will look into the matter and then pass an order under Section 26(6) of the said Act, against which an appeal would lie under Section 14 of the said Act or the jurisdiction under Article 226 of the Constitution of India may be invoked.

4. We take the aforesaid statement on record and make it clear that in case of an adverse order as aforesaid, no coercive action will be taken by the respondents for a period of 15 days from the date of receipt of receipt of such order by the petitioner, to enable the petitioner to avail of any further legal remedy.

The petition stands disposed of accordingly. No costs. Consequently, W.M.P.No.38546 of 2016 is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

sasi

To:

1. The National Highways Authority of India
III Floor, DP 34 (SP), Industrial Estate
Guindy, Chennai - 600 032.
2. The Project Director
National Highways Authority of India
III Floor, DP 34 (SP), Industrial Estate
Guindy, Chennai - 600 032.

+1cc to Mr.A.S.Kailasam & Associates, Advocate, S.R.No.997

W.P.No.44728 of 2016

SV(CO)
CA(19/01/2017)