

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2017

CORAM

THE HON'BLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.44550 of 2002

R.Vijaya

... Petitioner

Vs.

The Commissioner,
Arakkonam Municipality,
Arakkonam, Vellore District.

...Respondent

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorari, calling for the records of the respondent relating to the impugned notice in Na.KA.No.4310/02/F1, dated 01.08.2002 and quash the same.

For Petitioner : Mr. G.Jeremiah
For Respondents : Mr.R.Vijayakumar
Additional Government Pleader

O R D E R

The present writ petition has been filed challenging the encroachment notice issued by the respondent under the provisions of the Tamil Nadu District Municipalities Act, 1920.

2. The learned counsel appearing for the writ petitioner contended that the notice has not been issued by the respondent enabling the writ petitioner to submit his explanation and objection. Contrarily, the impugned notice is issued under the provisions of the said Act without providing any opportunity of hearing to the writ petitioner to submit his objections / explanation. Section 182(1) of the said Act is extracted hereunder:

"182. Removal of Encroachments.

(1) The executive authority may, by notice, require the owner or occupier of any premises to remove or alter any projection, encroachment or obstruction (other than a door, gate, bar or ground-floor window) situated against or in front of such premises and in or over any street.

... .."

3. On a perusal of the provisions of the Act, it is clear that competent authority is empowered to issue notice to the owner/occupier of the premises to remove or alter any projection, encroachment or obstruction. The impugned order is clear that the Writ Petitioner has put up construction projecting in the public street, namely Sathayamurthy Street in the Arakkonam Municipality.

4. When the Writ Petitioner is unable to establish that the construction was well within the approved plan, it is for the authorities to inspect the premises and take necessary action to remove all the encroachments. In the present Writ Petition, notice was issued to remove the encroachment by the Writ Petitioner under Section 182(1) of the Act. Hence, the procedure adopted by the respondent for removing the encroachment, is well in accordance with the provisions of the Tamil Nadu District Municipalities Act, 1920 and there is no infirmity in the impugned notice. That apart, the Writ Petitioner instead of submitting his objections / explanation to the competent authority, has filed this Writ Petition challenging the encroachment notice. This court is not inclined to consider the grounds raised in this Writ Petition. Accordingly, the Writ Petition stand dismissed. No costs.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

mm / pvs

To

The Commissioner,
Arakkonam Municipality,
Arakkonam, Vellore District.

+1cc to Mr.G.Jeremiah, Advocate Sr. 45099

W.P.No.44550 of 2002

GJII (CO)
VR(21/07/2017)