



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 24.08.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD) No.22227 of 2015
and
M.P (MD) No.1 of 2015

A.Emerson

... Petitioner

Vs.

1. The District Collector,
Kanyakumari District,
Nagercoil.

2. The Commissioner,
Colachel Municipality,
Colachel,
Kanyakumari District.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the records relates to the notice dated 04.12.2015 passed in Na.Ka.No.160/2012/TPI passed by the second respondent and quash the same.

For Petitioner : Mr.M.Suresh
For Respondents : Mr.T.S.Md.Mohideen, AGP

O R D E R

(Order of the Court was made by G.R.SWAMINATHAN, J.)

The writ petitioner challenges the notice dated 04.12.2015 passed by the second respondent whereby he was called upon to remove the encroachment in question within 24 hours.

2.It is the grievance of the writ petitioner that he was not given prior notice. In any event, giving 24 hours notice to remove the encroachment can hardly to be said to be fair or reasonable.



4.The learned counsel appearing for the writ petitioner also produced the relevant photographs. It is seen that the writ petitioner's premises and the road are separated by a channel. The writ petitioner had put up a wooden plank covering the said channel so as to have access to his premises. When the writ petitioner wants to erect a bridge like structure over a public drainage channel, he has to obtain permission from the concerned authority. It is not open to the writ petitioner to independently put up a construction on his own. Therefore, we dismiss this writ petition. However, the writ petitioner is given liberty to move the concerned authority for obtaining permission for putting up the said bridge like structure. It is open to the authority concerned to stipulate appropriate conditions for ensuring free flow of water in the channel.

5.This writ petition is disposed of with this observation. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar

To

1. The District Collector,
Kanyakumari District,
Nagercoil.

2. The Commissioner,
Colachel Municipality,
Colachel,
Kanyakumari District.

+ 1 CC TO MR.J.John JAYakumar, ADVOCATE IN SR No.75189
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No.74900

Skm/Arul

MK/MR KKR/SAR-3/2P/5C/18.09.2017

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