



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 20.03.2017

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM
and
THE HONOURABLE MR.JUSTICE N.AUTHINATHAN

W.P (MD) No.2883 of 2017
and
W.M.P (MD) No.2344 of 2017

Nainar Mohammed

.. Petitioner

Vs.

1.The Special Officer/B.D.O.,
Bomminayakkanpatti Panchayat,
Periyakulam Union, Theni District.

2.The Thasildhar,
Periyakulam Taluk , Theni District.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records relating with the impugned notice dated 06.02.2017 issued by the first respondent and quash the same as it is arbitrary and illegal.

For Petitioner : Mr.R.Suriyanarayanan

For Respondent No.2 : Mr.M.Govindan,
Special Government Pleader.

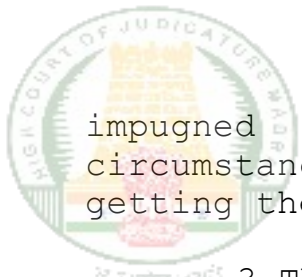
For Respondent No.1 : No appearance

ORDER

[Order of the Court was made by A.SELVAM, J.]

This writ petition has been filed under Article 226 of the Constitution of India praying to call for records relating to the impugned notice dated 06.02.2017 issued by the first respondent and quash the same, by way of issuing a writ of certiorari.

2.The learned counsel appearing for the petitioner has contended to the effect that the petitioner is the absolute owner of Survey No.2383/2B, wherein he constructed a dwelling house and is situate adjacent to Survey No.2383/2B and the first respondent even without mentioning any survey number in the



impugned notice, has issued the same and under the said circumstances, the present writ petition has been filed for getting the relief sought therein.

3. The learned Special Government Pleader appearing for the second respondent has contended to the effect that prior to issuance of impugned notice, the second respondent viz., Tahsildar, Periyakulam Taluk, has given a report, wherein it has been clearly stated that in Survey No.2381, some encroachments are in existence.

4. The main contention put forth on the side of the petitioner is that in the impugned notice, survey number has not been mentioned.

5. As rightly pointed out on the side of the petitioner, no survey number has been mentioned in the impugned notice. However in the proceeding issued by the second respondent, it has been clearly mentioned that encroachments are in existence in Survey No.2381. Further it is an admitted fact that Survey Nos.2381 and 2383/2B are contiguous. Under the said circumstances, this Court is inclined to pass the following order.

6. In fine, the respondents 1 and 2 are directed to conduct proper survey in respect of Survey Nos.2381 and 2383/2B in the presence of the petitioner and if there is any encroachment in Survey No.2381, the first respondent is at liberty to proceed on the basis of the impugned notice. With the above observations, this writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub-Assistant Registrar

To

1. The Special Officer/B.D.O.,
Bomminayakkanpatti Panchayat,
Periyakulam Union, Theni District.

2. The Thasildhar,
Periyakulam Union, Theni District.

+One cc to The Special Government Pleader, SR.No.16157

+One cc to Mr.R.Suriyanarayanan, Advocate, SR.No.15980

smn

RL/5C/2P/SKN/RSK/27.3.2017

ORDER MADE IN

W.P(MD)No.2883 of 2017

and

W.M.P(MD)No.2344 of 2017

20.03.2017