

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2018

CORAM :

THE HON'BLE MRS.V.K.TAHILRAMANI, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.20513 of 2018 and
W.M.P.No24115 of 2018

Tmt.P.Nagajothi

.. Petitioner

vs.

1 The Divisional Engineer
Highways Thiruvallur.

2 The Assistant Divisional Engineer
Highways Building & Maintenance
Sub Divisional Office
Gummudipoondi
Thiruvallur District.

3 The District Collector
Collectorate, Thiruvallur.

4 The Revenue Divisional Officer
Revenue Div. Office Ponneri.

5 The Tahsildar
Taluk Office Gummudipoondi.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus, Calling for the records relating to the impugned order made in 375/2016/ E.Ne.U/ dated 23.07.2018 passed by the second respondent and quash the same and consequently forbear the respondents from any manner demolishing and interfering with petitioners peaceful possession and enjoyment of the land and building comprised in S.No.236/ 3B1A1 in Pethikuppam Village, Gummudipoondi Taluk, Thiruvallur District.

For Petitioners : Mr.G.Ethirajulu

For Respondents : Mr.S.Kamalesh Kannan

Govt. Advocate - for R1 to R5

O R D E R
(Order of the Court made by M.DURAI SWAMY, J.)

The petitioner has filed the above Writ Petition to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order dated 23.07.2018 passed by the 2nd respondent, to quash the same and consequently forbear the respondents from in any manner demolishing and interfering with the petitioner's peaceful possession and enjoyment of the land and building comprised in S.No.236/3B1A1 in Pethikuppam Village, Gummudipoondi Taluk, Thiruvallur District.

2. By the impugned order dated 23.07.2018, the 2nd respondent rejected the reply dated 19.07.2018 given by the petitioner. While coming to the said decision, the 2nd respondent observed that an inspection was conducted jointly by the Revenue Officials and the Highway Officials on 11.07.2018 and also marked the encroached constructions in the Highways.

3. By letter dated 11.07.2018, the petitioner was called upon to submit his reply as to why the encroachment should not be removed by the petitioner himself.

4. It is pertinent to note that when the Revenue and Highways officials inspected the land in question on 11.07.2018, the petitioner was also present and at that time, the encroachments made by the petitioner in Survey No.235 was marked. However, the petitioner did not raise any objections at the time of inspection. After the receipt of the notice dated 11.07.2018, the petitioner has also given a reply dated 19.07.2018. Subsequently, the petitioner has given another reply dated 24.07.2018.

5. On a reading of the reply dated 19.07.2018 and 24.07.2018, it is clear that the petitioner has not disputed the fact that he was also present at the time of inspection made by the Revenue and Highways officials on 11.07.2018. If the case of the petitioner is true, he would have raised objections at the time of inspection on 11.07.2018. But, he has not raised any objections on that day. Only when he sent the reply on 24.07.2018, he has raised all objections. Even in his reply, the petitioner has not denied the fact that he was present at the time of inspection. The petitioner has not established that the land in question belongs to him and that he had not encroached the Highways land. Whereas, the respondents have clearly established that the petitioner has encroached the Highways land and passed the impugned order.

6. In these circumstances, we do not find any error or irregularity in the order passed by the 2nd respondent. The Writ Petition is devoid of merits and the same is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

Rj
To

- 1 The Divisional Engineer
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- 2 The Assistant Divisional Engineer
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Sub Divisional Office
Gummudipoondi
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+1 CC to The Govt. Pleader sr 85645

सत्यमेव जयते

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PPA (CO)
SP(09/01/2019)

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