



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.03.2018

CORAM:

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM  
AND  
THE HONOURABLE Mrs.JUSTICE R.THARANI

Writ Petition (MD).No.4613 of 2018  
and  
W.M.P.(MD)No.4691 of 2018

Palaniappan

... Petitioner

Vs.

1.The Divisional Engineer,  
Highways,  
Karur Division,  
Karur.

2.The Assistant Division Engineer,  
(Construction and Maintenance)  
Highways,  
Aravakurichi,  
Karur District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, praying for issuance of a Writ of Certiorari, to call for the records relating to the impugned notice issued and pasted on the petitioner's house door by the second respondent in his proceedings, dated 27.02.2018 and quash the same as illegal.

For Petitioner : Mr.C.Mayil Vahana Rajendran  
For Respondents : Mr.D.Muruganantham  
Additional Government Pleader

ORDER

(Order of the Court was made by T.S.SIVAGNANAM, J)

Heard Mr.C.Mayil Vahana Rajendran, learned counsel appearing for the petitioner and Mr.D.Muruganantham, learned Additional Government Pleader appearing for the respondents.

2.The petitioner is before this Court repeatedly for several years, (i.e) from the year 2005 onwards, just to sustain his encroachment in the Government land. Last of writ petition, filed by the petitioner, was dealt by us in W.P.(MD)No.2708 dated 12.02.2018,



and the writ petition was disposed of issuing the following direction:

"5.The learned Additional Government Pleader on instructions from the second respondent, who is present in Court, submitted that another notice has been issued on 07.02.2018, I.e., after the impugned notice, granting fifteen days time to vacate the premises. However, since the earlier Division Bench has directed an opportunity to be given to the petitioner, this Court deems it appropriate that a date should be fixed, on which date the petitioner should appear before the second respondent and he should be heard on the said date and any documents in support of his claim can be produced and the second respondent shall pass orders on merits. Accordingly, the present writ petition stands disposed of and the petitioner is directed to appear before the second respondent on 19.02.2018 at 11.00 a.m., and the petitioner be heard by the second respondent and orders be passed on merits and in accordance with law within a period of ten days from the said date. No Costs. Consequently, the connected Miscellaneous petition is closed."

3.The respondent has scrupulously followed the above direction. The documents were produced by the petitioner and the order of eviction has been passed and one more opportunity was given to the petitioner to remove the encroachment by himself vide notice dated 27.02.2018, which is impugned in the writ petition. We have seen the nature of documents produced and the petitioner placed heavy reliance on the certificate issued by Village Administrative Officer. If there is encroachment of Government land, Village Administrative Officer has no jurisdiction to certify that the petitioner can continue as the land is vested with the Highways Department.

4.The learned counsel for the appellnat strenuously contented that the petitioner has alone been targeted and in respect of others, no action has been intiatiated. Therefore, by an order dated 05.03.2018, we directed action taken report to be submitted in a tabulated form. The report has been submitted by the second respondent, from which, it is seen that, action has been initiated against 40 such encroachers and copy of notice issued to them and the encroachers received the notice on 27.02.2018. Thus, we find no discrimination of removal of encroachment.

5.The learned counsel for the petitioner pleaded that on account of extreme financial difficulties, the petitioner should be granted some time. It is to be noted that the petitioner has been continuing in the said place from the year 2005 onwards, based on the Court orders. Therefore, 7 days would be reasonable. Hence, for the above reasons the writ petition is dismissed and the petitioner is directed to vacate the possessed lands and hand over the same to



the respondents on or before 19.03.2018, failing which, the respondent shall evict the petitioner. The respondent is directed to carry out the eviction process in respect of others without giving any room for discrimination.

Sd/-

Assistant Registrar(CS-III)

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/True Copy/

Sub Assistant Registrar

To

1.The Divisional Engineer,  
Highways,  
Karur Division,  
Karur.

2.The Assistant Division Engineer,  
(Construction and Maintenance)  
Highways,  
Aravakurichi,  
Karur District.

+1cc to M/S.C.Mayil Vahana Rajendran, Advocate SR.No. 53174

+1cc to Special Government Pleader, SR.No. 53690

Writ Petition (MD).No.4613 of 2018

06.03.2018

mrn

JM/SV MMS/SAR 2/15.03.2018/3P/5C