

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.08.2019

CORAM

THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

W.P.No.12462 of 2010
and
M.P.Nos.1, 2 of 2010 and 1 of 2011

Joseph

..Petitioner

Vs

1.The Collector,
Erode District.

2.The Assistant Divisional Engineer,
Highways, Sathyamangalam, Erode.

3.The Government of Tamil Nadu,
Represented by the Secretary,
Revenue Department,
Fort St. Goerge,
Madras - 9.

..Respondents

Prayer:- Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, to call for the records on the file of the second respondent in proceedings in Na.Roc.Encroachment/08 AEE dated 13.05.2010 and quash the same as illegal, incompetent and without jurisdiction and further direct the first and third respondent for issuance of patta to the petitioner in respect of the property at Rs.No.411, old survey number 156/A2B, Sathyamangalam, Erode.

For Petitioner : Mr.V.Raghavachari

For Respondents : Mr.B.Anand
Government Advocate

ORDER

Heard the learned Counsel for the petitioner and the learned Government Advocate appearing for the respondents and perused materials available on record.

2. This writ petition has been filed, challenging the notice issued by the second respondent dated 13.05.2010. The petitioner claims that he has been residing in Survey No.156/A2B (Rs.No.411) for more than 50 years. His house was assessed to house tax right from 1962. While so, during the year 1988, the Highways Department issued notice dated 21.09.1987 and after enquiry, the eviction proceedings were dropped. But after lapse of 20 years, the department orally directed the petitioner to vacate the place. Next, the petitioner would state that the second respondent Highways Department has no right or authority to evict the petitioner.

3. The second respondent has filed a counter stating that the land in Survey No.425/2 belongs to Highways Department and it is being utilized by the department. The second respondent issued eviction notice dated 13.05.2010 and the same was served on the petitioner on 17.05.2010. The Assistant Divisional Engineer of the Highways Department has issued Section (7) of Show Cause Notice dated 28.06.2010 and the same was served petitioner on 01.07.2010. The Sathyamangalam - Athani Road, is only 7 metres and the road being narrow has now taken up by the Highways Department for widening and hence it is necessary to remove the encroachments of the petitioner.

4. This writ petition has been filed contending that the second respondent has no authority to evict the petitioner. It is represented by the learned Government Advocate that subsequent to the impugned notice, a show cause notice under Section (7) has been issued by the petitioner, which is not challenged. However, in view of the pendency of this writ petition and the interim order, the respondents are not able to pursue the eviction proceedings.

5. Since, the second respondent has already issued a notice dated 08.06.2010, and no further action was taken pursuant to the notice impugned this writ petition dated 13.05.2010, this Writ Petition is closed granting liberty to the respondents to pursue the eviction proceedings initiated against the petitioner and pass orders in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

arb

To

1.The Collector,
Erode District.

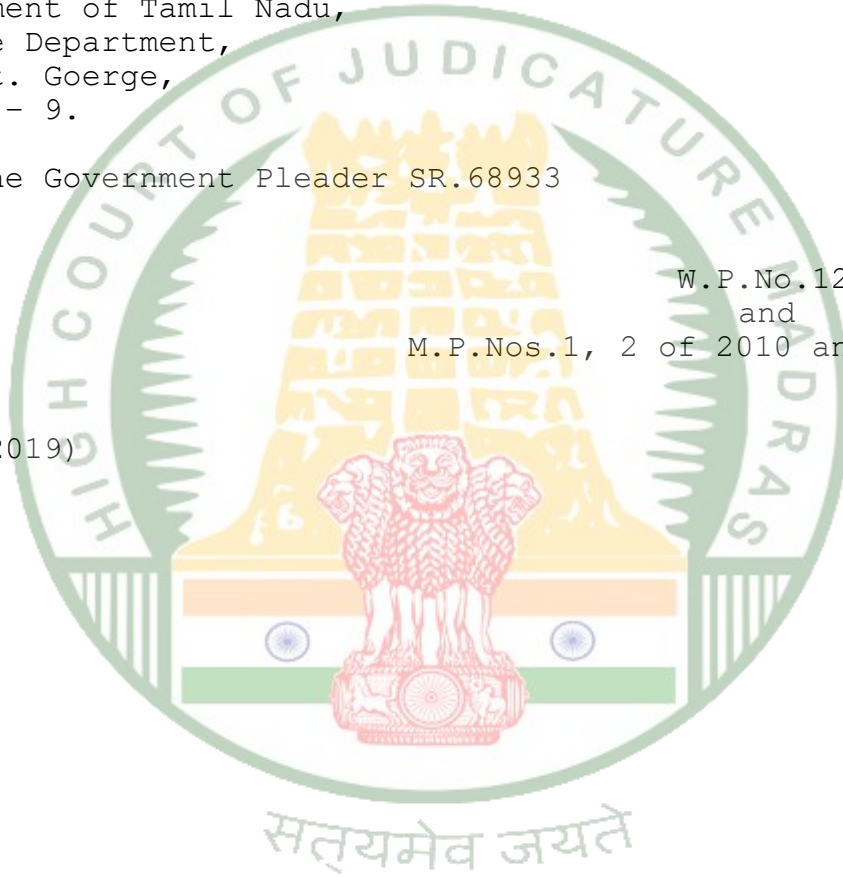
2.The Assistant Divisional Engineer,
Highways, Sathyamangalam, Erode.

3.The Secretary,
Government of Tamil Nadu,
Revenue Department,
Fort St. George,
Madras - 9.

+1cc to the Government Pleader SR.68933

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and
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NR(CO)
CB(16/10/2019)



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