

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2019

CORAM :

The Hon'ble Mrs.VIJAYA K.TAHILRAMANI, CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE M.DURAI SWAMY

W.P. Nos.4016, 4017 and 4021 of 2019

Roja Amma

.. Petitioner in
all WPs

-vs-

1.The Secretary to Government,
Public Works Department,
State of Tamil Nadu,
Fort St. George,
Chennai - 600 009.

2.The Assistant Executive Engineer,
Public Works Department,
(Water-bodies encroachment Dept)
Coovam Drainage Sub Division,
Chepauk, Chennai - 600 005.

.. Respondents in
all WPs

W.P.No.4016 of 2019 filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus calling for the records of the 2nd respondent and quash the impugned notice dated 22.01.2019 issued by the 2nd respondent purporting to be under Section 6 of the Land Encroachment Act, 1905 affixed on the petitioner's property bearing Door No.49, Amman Street, Railnagar, Mettukulam, Koyambedu, Chennai-600 107 situate in Block No.34, comprised in Old Survey No.155/1 Part, T.S.No.6, Koyambedu Village, Aminjikarai Taluk, Chennai District as the same is ultra virus, unconstitutional, perverse, arbitrary, biased, illegal and against all principles of law and natural justice and consequently forbearing the respondents, their men, agents, servants and subordinates from demolishing or in any other manner proceeding against the petitioner's property detailed above pursuant to the impugned notice dated 22.01.2019.

W.P.No.4017 of 2019 filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus calling for the records of the 2nd respondent and quash the impugned notice dated 22.01.2019 issued by the 2nd respondent

purporting to be under Section 6 of the Land Encroachment Act, 1905 affixed on the petitioner's property bearing Door No.50, Amman Street, Railnagar, Mettukulam, Koyambedu, Chennai-600 107 situate in Block No.34, comprised in Old Survey No.155/1 Part, T.S.No.5, Koyambedu Village, Aminjikarai Taluk, Chennai District as the same is ultra virus, unconstitutional, perverse, arbitrary, biased, illegal and against all principles of law and natural justice and consequently forbearing the respondents, their men, agents, servants and subordinates from demolishing or in any other manner proceeding against the petitioner's property detailed above pursuant to the impugned notice dated 22.01.2019.

W.P.No.4021 of 2019 filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus calling for the records of the 2nd respondent and quash the impugned notice dated 22.01.2019 issued by the 2nd respondent purporting to be under Section 6 of the Land Encroachment Act, 1905 affixed on the petitioner's property bearing Door No.48 and 48/1, Amman Street, Railnagar, Mettukulam, Koyambedu, Chennai-600 107 situate in Block No.34, comprised in Old Survey No.155/1 Part, T.S.Nos.7 and 8, Koyambedu Village, Aminjikarai Taluk, Chennai District as the same is ultra virus, unconstitutional, perverse, arbitrary, biased, illegal and against all principles of law and natural justice and consequently forbearing the respondents, their men, agents, servants and subordinates from demolishing or in any other manner proceeding against the petitioner's property detailed above pursuant to the impugned notice dated 22.01.2019.

For Petitioner : Mr.L.K.Manjunath

For Respondents : Mr.S.Kamalesh Kannan
Government Advocate

COMMON ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

Heard Mr.L.K.Manjunath, learned counsel for the petitioner and Mr.S.Kamalesh Kannan, learned Government Advocate for the respondents.

2. The prayer of the petitioner is to quash the impugned notices dated 22.01.2019 issued by respondent No.2. The said notices are issued under Section 6 of the Tamil Nadu Land Encroachment Act, 1905. The said notices pertain to the petitioner's property, which are situated at Door Nos.49, 50, 48 and 48/1, Amman Street, Rail Nagar, Mettukulam, Koyambedu, Chennai-600 107 situate in Block No.34, comprised in Old Survey

No.155/1 Part, T.S.Nos.6, 5, 7 and 8 Koyambedu Village, Aminjikarai Taluk, Chennai District respectively. Admittedly, the said notices were affixed on the doors of the petitioner's property.

3. The learned counsel for the petitioner submitted that the said notices have to be quashed because mandatory procedure of issuance of notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 was not followed by the authorities.

4. The learned Government Advocate for the respondents pointed out that notices under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 were served on the petitioner by affixing them on the premises of the petitioner. This is also stated in the counter-affidavit filed by respondent No.2 i.e., the Assistant Executive Engineer, Public Works Department, Cooum Basin Sub Division, Chepauk, Chennai-5.

5. In view of the fact that the petitioner is impugning the notices issued under Section 6 of the Tamil Nadu Land Encroachment Act, 1905, the petitioner has a remedy of appeal under Section 10 of the said Act. As the petitioner has efficacious alternate remedy of preferring appeals under Section 10 of the Tamil Nadu Land Encroachment Act, 1905, we are not inclined to interfere with the impugned notices and the petitioner is relegated to the remedy of preferring appeals.

6. The writ petitions are disposed of with the above observation. No costs. Consequently, W.M.P.Nos.4468, 4469 and 4471 of 2019 are closed.

s/d-

Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

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To

1.The Secretary to Government,
Public Works Department,
State of Tamil Nadu,
Fort St. George,
Chennai - 600 009.

2.The Assistant Executive Engineer,
Public Works Department,
(Water-bodies encroachment Dept)
Coovam Drainage Sub Division,
Chepauk, Chennai - 600 005.

+3 Ccs to Mr.N.R.Anantharamakrishnan, Advocate sr 26984, 26983,
26982.
+1 CC to Govt. Pleader sr 27221.

W.P.Nos.4016, 4017 and 4021 of 2019

PPA (CO)
SP (09/04/2019)



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