

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

W.P.No.33491 of 2019
and W.M.P.Nos.33960 & 33961 of 2019

J.Thiyagarajan Petitioner
versus

1.The Divisional Engineer,
Highways (Construction and Maintenance),
Coimbatore.

2.The Assistant Divisional Engineer,
Highways (Construction and Maintenance),
South Sub-Division,
Coimbatore.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent dated 24.08.2018 in respect of the residential house bearing Door No.3/334, Siruvani Main Road, Coimbatore, alleged to be in S.No.183/3.36, Kumarapalayam Village and lying Siruvani Salai, Coimbatore from KM 2/8 to 3/0 and quash the same as illegal and without jurisdiction.

For Petitioner : Mr.A.C.Kumaragurubaran

For Respondents: Mr.V.Shanmuga Sundar

Special Government Pleader

O R D E R

[Order of this Court was made by R.SUBBIAH, J.]

The petitioner has come up with the present Writ Petition for a Certiorarified Mandamus, calling for the records of 2nd respondent dated 24.08.2018 in respect of the residential house bearing Door No.3/334, Siruvani Main Road, Coimbatore, alleged to be in S.No.183/3.36, Kumarapalayam Village, from KM 2/8 to 3/0 and quash the same.

2. The case of the petitioner is that the land measuring an extent of 1323 sq.ft. comprised in S.No.182/2A2, situated in Kumarapalayam Village, Coimbatore District, being Gramam Natham, which was originally belongs to the petitioner's family. The aforesaid property is assessed to property tax. The petitioner and predecessor's are in

occupation and they are regularly paying the tax to the revenue authorities. In such circumstances, the petitioner received a notice dated 24.08.2018 issued by the second respondent stating that, they have encroached the land belonging to the Highways Department measuring an extent of 15 x 5 sq.mt. on the right side of Siruvani Main Road, Coimbatore, lying between KM 2/8 to 3/0, Kumarapalayam Village, in Survey No.183/3.36 and was called to remove the encroachments within a period of 7 days. Challenging the said order, the petitioner is before this Court with the present Writ Petition.

3. Today, when the petition is taken up for consideration, the learned Special Government Pleader appearing for the respondents submitted that, the request made by the petitioner to provide an alternate house to him through the Tamil Nadu Slum Clearance Board, was recommended by the Slum Clearance Board for providing 125 houses including the petitioner. However, the petitioner disputed the same stating that there is no encroachment.

4. In view of the submission made by the learned Special Government Pleader appearing for the respondents, we are of the opinion that it is well settled legal position that the disputed factual questions of law cannot be gone into in this Writ Petition. Hence, this Writ Petition stands dismissed. The petitioner has to work out his remedy in the manner known to law before the Civil Court and not before this Court. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (JJ Act)

//True Copy//

Sub Assistant Registrar

sri

To

1.The Divisional Engineer,
Highways (Construction and Maintenance),
Coimbatore.

2.The Assistant Divisional Engineer,
Highways (Construction and Maintenance),
South Sub-Division, Coimbatore.

+1cc to Mr.A.C.Kumaragurubaran, Advocate, S.R.No. 105246

+1cc to the Government Pleader, S.R.No. 105825

W.P.No.33491 of 2019
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VG II (CO)
GN (20/02/2020)