



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

Writ Petition (MD).No.19625 of 2019
and
W.M.P (MD) No.16085 of 2019

K.Thangamani

... Petitioner

Vs.

1.The Assistant Divisional Engineer,
State Highways, (Construction & Maintenance),
Vedasandur, Dindigul District.

2.The Tahsildar,
Vedasandur Taluk,
Dindigul District.

3.P.Peryasamy

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari Mandamus, to call for the records relating to the impugned notice குறிப்பாணை எண் .II ஆக்கிரமிப்பு/உநாள்: 30.09.2019 of the first respondent and quash the same as illegal and consequently direct the second respondent to measure and survey the petitioner's shop in S.No.700C/2B2 patta No.4932 in V.Kurumbapatti, Vedasandur Taluk, Dindigul District after giving prior notice to him within a stipulated time.

For Petitioner : Mr.M.S.Sureshkumar

For Respondents : Mr.A.K.Baskara Pandian
(For R1 & R2)
Special Government Pleader

O R D E R

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

Heard Mr.M.S.Sureshkumar, learned counsel for the petitioner and Mr.A.K.Baskara Pandian, learned Special Government Pleader who accepts notice on behalf of the respondents 1 and 2. Since no



adverse order is going to be passed against the third respondent, notice to him is dispensed with.

2. With consent of both sides, this writ petition is taken up for final disposal at the admission stage itself.

3. The petitioner is before this Court challenging the notice issued by the first respondent stating that the petitioner has encroached the highways land.

4. The petitioner in the affidavit filed in support of the writ petition submits that if it is shown that the petitioner is encroacher, he is ready to remove the encroachment, but there cannot be any discrimination in the matter of removal of encroachment and the third respondent is also encroacher, but based on the complaint given by the third respondent against the petitioner, now, the first respondent is selectively taking action against the petitioner alone.

5. Mr. A.K. Baskara Pandian, learned Special Government Pleader accepting notice on behalf of the respondents 1 and 2, submitted that there will be no discrimination in taking action against the encroachers and the authorities will follow the Rules and proceed in accordance with law.

6. We find that the petitioner has been issued a notice on 03.09.2019 directing him to remove the encroachment within 15 days. The petitioner states that he has got certain objections and that he is not an encroacher. However, at this stage, we cannot examine such a contention in this writ petition. However, we give liberty to the petitioner to submit his objection by treating the impugned order as the show cause notice. Accordingly, this Writ Petition is disposed of with a direction to the petitioner to submit his objection to the impugned notice, within a period of one week from the date of receipt of a copy of this order. On receipt of the same, the first respondent shall examine the objections and ascertain as to extent of the encroachment and take action in accordance with law, equally, the first respondent should take action against all encroachers in the said road and there should be no discrimination. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS)



To

1.The Assistant Divisional Engineer,
State Highways, (Construction & Maintenance),
Vedasandur, Dindigul District.

2.The Tahsildar,
Vedasandur Taluk,
Dindigul District.

+1 CC to M/s.M.S.SURESH KUMAR, Advocate SR-86341.

+1 CC to M/s.GP SR-86547.

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CS (03.10.2019) 3P 5C