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W.A.No.2321 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.10.2022

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.A.No.2321 of 2022

V.R.Mariappan

.. Appellant

VS

The Project Director,
NHAI, PIU Kancheepuram,
National Highways Authority of India,
No.7/16, Govindarajan Street,
Tambaram West-600 045.

.. Respondent

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 22.4.2022 passed in W.P.No.1213 of 2022.

For the Appellant : Mr.R.Suresh Kumar
for M/s.K.M.Vijayan Associates

For the Respondents : Mr.Su.Srinivasan



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JUDGMENT

(Delivered by the Hon'ble Acting Chief Justice)

This writ appeal is directed against the order dated 22.4.2022 passed in W.P.No.1213 of 2022, wherein, in paragraphs 4 and 5, the learned Single Judge has specifically observed as under:

"5. The learned counsel appearing for the respondent submits that the petitioners properties were demolished only after the due process of law. However, petitioner may approach the competent form for claiming their grievance.

6. Recording the submissions made by the learned counsel appearing for the respondent, the present writ petitions are closed. In view of the above submissions, the prayer sought by petitioners in the present writ petition cannot be granted. However, liberty is granted to the petitioners, to work out their remedy in the manner known to law."

2. Learned counsel appearing for the appellant submitted that before demolishing the property belonging the appellant, no opportunity was given to him.



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3. The said statement of learned counsel for the appellant runs counter to the averment made in paragraph 4 of the affidavit filed in support of the writ petition, wherein the appellant stated that *"respondent all of a sudden on 18.12.2020 affixed a notice directing the petitioner to remove the unauthorised occupation under Section 26 of the Control of National Highways Act, 2002"*. Upon receipt of the said notice, the appellant has also given reply dated 31.12.2021.

4. A perusal of notice dated 18.12.2020 shows that the appellant was in unauthorised occupation of the land belonging to the National Highways Department. Since his unauthorised occupation has caused nuisance, the National Highways Authority of India has issued notice to the appellant and thereafter, removed the said unauthorised occupation made by the appellant and others. Though the appellant claimed that he is patta-holder of the land in question, no such patta has been produced either before the learned Single Judge or this Court.



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5. Having considered the case of the appellant and recording the submission of learned counsel for the respondent that only after following due process of law the demolition was effected, the learned Single Judge has closed the writ petition with liberty to the appellant to approach the competent forum, if he is aggrieved.

6. Since the learned Single Judge has granted liberty to the appellant to work out his remedy in the manner known to law, the course open to the appellant is only to approach the competent forum. Therefore, we do not find any infirmity in the order of the learned Single Judge.

7. The writ appeal fails and the same is dismissed. There will be no order as to costs. Consequently, C.M.P.No.17746 of 2022 is closed.

(T.R., ACJ.) (D.K.K., J.)
19.10.2022

Index : Yes/No
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D.KRISHNAKUMAR,J.

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