



W.P.No.5318 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2023

CORAM

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

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Writ Petition No.5318 of 2023

A.Paramasivam

.. Petitioner

Vs.

1. The District Collector
Thiruvallur District.
2. The Tahsildar
Ponneri Taluk, Ponneri.
3. The Executive Officer
Chinnambedu Panchayat
Chinnambedu Post
Ponneri Taluk.
4. The Divisional Engineer
Construction & Maintenance
State Highways
Thiruvallur District.
5. The Assistant Divisional Engineer
State Highways, Gummidipoondi Zone
Gummidipoondi
Thiruvallur District.

.. Respondents



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Prayer: Writ Petition under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus calling for the records relating to the order dated 08.02.2023 passed by the fifth respondent in Letter No.260/2014/U/, quash the same and direct the respondents herein to grant license to petitioner Flower shop cum residence at Arani-Siruvapuri Road, 3/4 kms, Agaram, Chinnambedu Village & Post, Ponneri Taluk, Thiruvallur District.

For the Petitioner : Mr.S.Senthilnathan

For the Respondents : Mr.P.Muthukumar
State Government Pleader

ORDER

(Made by the Hon'ble Acting Chief Justice)

Challenging the proceedings dated 08.02.2023 issued by the fifth respondent, directing the petitioner to remove the encroachment made by him, this writ petition has been filed.

2. According to the petitioner, he is carrying on the business of tender coconut and flower sales for the past 25 years in two cents of land at Puduvayal-Periyapalayam Road in S.No.1169, Chinnambedu Village, Ponneri Taluk, in the front portion of the thatched house



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constructed by him. He is paying property tax to Chinnambedu Town Panchayat. He applied for license on 23.06.2021 to sell tender coconut and flowers as per Section 26 of the Tamil Nadu State Highways Act, 2001. He also made a representation to the second respondent on 23.02.2021, seeking patta. He received a notice dated 21.06.2021 issued by the Highways Authorities, for which, he submitted his reply on 23.06.2021.

3. A writ petition in W.P.No.8384 of 2021 was filed by one M.Jothi seeking a direction to remove the encroachment in Arani-Siruvapuri Road and the same is pending, in which, the petitioner has filed a counter affidavit stating that his application seeking license is pending. In the meanwhile, the impugned proceedings has been issued. Hence, the above writ petition.

4. Learned counsel appearing for the petitioner contended that the impugned proceedings has been issued without considering the representation made by the petitioner and therefore, the same is arbitrary and in violation of the principles of natural justice.



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5. Learned counsel further contended that the petitioner is residing and doing business five meters away from the State Highway, without causing any hindrance to the traffic and the public and therefore, the impugned proceedings is wholly unjustified.

6. Learned State Government Pleader produced a copy of the proceedings of the second respondent dated 29.01.2021, along with a rough sketch and submitted that the petitioner is attempting to regularise the encroachment by making an application for license after the receipt of notice of eviction.

7. A perusal of the rough sketch clearly shows the road that was marked in yellow colour and the shop of the petitioner, which extends almost to the centre of the State Highway. Thus, it is clear that the petitioner has made an encroachment in the State Highway. Therefore, the contention that the impugned proceedings has been passed without considering the reply of the petitioner, which was made after receipt of the notice of eviction and the application made by him for license to sell coconut and flowers, is not sustainable.



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8. In view of the above, we do not find any merit in this writ petition. Accordingly, the writ petition is dismissed. There will be no order as to costs. Consequently, WMP No.5350 of 2023 is also dismissed.

(T.R., ACJ.) (D.B.C., J.)
22.02.2023

Index : Yes/No
Neutral Citation : Yes/No

kpl

To

1. The District Collector
Thiruvallur District.
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T.RAJA, ACJ,
and
D.BHARATHA CHAKRAVARTHY,J

(kpl)

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