



W.P.No.30778 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.10.2023

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.30778 of 2023

M.DEIVANAYAGAM

.. Petitioner

Vs

1. THE STATE OF TAMILNADU
REP. BY ITS SECRETARY TO GOVERNMENT,
DEPARTMENT OF HIGHWAYS AND MINOR PORTS,
FORT ST. GEORGE, SECRETARIAT,
CHENNAI - 600009.

2. THE ASSISTANT DIVISIONAL ENGINEER
(NA) K (M) P, DEPARTMENT OF HIGHWAYS AND MINOR PORTS,
CHENNAI CITY ROADS DIVISION,
CHENNAI - 600 015.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the records of the 2nd respondent pertaining to the impugned order bearing No.02/2023/E.Ni.V.A/ dated 16.10.2023 pasted on the petitioner's property on 18.10.2023 and quash the same and consequently forbear the 1st and 2nd respondents from in any way interfering with the petitioner's peaceful possession and enjoyment of the land and building



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comprised in Ward D, Block 109, S.No.3, Old S.No.1127/1B of Madhavaram Village admeasuring 2 grounds and 734 square feet except in accordance with law.

For the Petitioner : Mr.Richardson Wilson

For the Respondents : Mr.P.Muthukumar
State Government Pleader
assisted by Mrs.R.Anitha
Special Government Pleader

ORDER

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

Heard Mr.Richardson Wilson, learned counsel for the petitioner; and Mr.P.Muthukumar, learned State Government Pleader, assisted by Mrs.R.Anitha, learned Special Government Pleader, for the respondents.

2. Learned counsel for the petitioner submits that earlier an order was passed by the respondents holding the petitioner as an encroacher and directing the petitioner to remove the encroachment. The petitioner had filed W.P.No.25163 of 2023. This court under order dated 25.8.2023 directed that the impugned



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order therein be construed as a show cause notice. Liberty was granted to the petitioner to file a reply within ten days and the authorities were directed to consider the reply filed by the petitioner and take a decision afresh. On 16.10.2023, a final notice has been issued without considering the reply filed by the petitioner.

3. Learned State Government Pleader, on oral instructions, submits that, in fact, after the reply was received from the petitioner, a survey was conducted in the presence of the petitioner and the reply was considered and thereafter an order is passed.

4. The impugned order/final notice dated 16.10.2023 does not depict that the reply filed by the petitioner was considered and/or the survey was conducted.

5. Learned State Government Pleader submits that the present final notice would be withdrawn and a fresh order would be passed upon consideration of the reply filed by the petitioner and the survey report.



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6. In view of the same, the purpose of the writ petition does not survive.

The writ petition is disposed of accordingly. There will be no order as to costs. Consequently, W.M.P.Nos.30443, 30444 and 30448 of 2023 are closed.

(S.V.G., CJ.)

(D.B.C., J.)

20.10.2023

Index : Yes/No
Neutral Citation : Yes/No
sasi

To:

1. THE SECRETARY TO GOVERNMENT,
STATE OF TAMILNADU
DEPARTMENT OF HIGHWAYS AND MINOR PORTS,
FORT ST. GEORGE, SECRETARIAT,
CHENNAI - 600009.
2. THE ASSISTANT DIVISIONAL ENGINEER
(NA) K (M) P, DEPARTMENT OF HIGHWAYS AND MINOR PORTS,
CHENNAI CITY ROADS DIVISION,
CHENNAI - 600 015.



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THE HON'BLE CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY,J.

(sasi)

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