

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2015

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.20246 of 2014

and

M.P.No.1 of 2014

The Retreat by Mint Homes,
Residents Association,
Rep. by its Secretary,
P.Ganesan, Coimbatore

.... Petitioner

vs.

1.The Commissioner,
Corporation of Coimbatore,
Coimbatore City Municipal Corporation,
B.B. Street,
Coimbatore-641 001.

2.The Assistant Commissioner,
Coimbatore City Municipal Corporation,
East Zone, Trichy Road,
Solinganallur (PO)
Coimbatore - 641 005.

.... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus, calling for the records of the 1st respondent with reference to his order in Na.Ka.No.0398/2013/MH2 dated 24.02.2014 and quash the same and direct the respondents to permit the petitioner association to use the OSR lands situated in Survey No.27 part, 28/3 part, 29/2 part and 29/4, Sowripalayam Village, Coimbatore District as an exclusive park of the petitioner association.

For Petitioner : Mr.I.Abrar Md Abdullah

For Respondents : Mr.K.Magesh,
Standing Counsel.

O R D E R

Heard Mr.I.Abrar Md Abdullah, learned counsel appearing for the petitioner and Mr.K.Magesh, learned Standing Counsel appearing for the respondents.

2. The petitioner seeks for issuance of writ of certiorarified mandamus, to quash the impugned proceeding dated 24.02.2014, wherein the petitioner request for retaining the area served as OSR land for the purpose of development and utilisation and the request of the petitioner's association was rejected. Though several grounds have been raised by the petitioner challenging the impugned proceedings, the primary ground of challenge is on the ground that the impugned proceeding is in violation of the principles of natural justice and the impugned order has been passed without issuing any notice. The petitioner relies upon the gift deed dated 06.04.2009, which according to the petitioner entitle them to make use of the land.

3. The learned counsel appearing for the respondents contended that the past conduct of the petitioner's association did not instill confidence with the local authority. He further submitted that since the petitioner's association misused the OSR land and constructed the swimming pool and therefore, the Corporation passed the impugned order.

4. In any event, the allegation did not find place in the impugned order and it is stated for the first time before this Court. Hence, this Court is of the view that the matter should be reconsidered by the respondents.

5. Accordingly, this writ petition is allowed and the impugned order is set aside and the respondent corporation is directed to issue show cause notice to the petitioner and after hearing the petitioner to pass orders in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Asst. Registrar.

/true copy/

Sub Asst. Registrar.

vsm

To

1.The Commissioner,
Corporation of Coimbatore,
Coimbatore City Municipal Corporation,
B.B. Street,
Coimbatore-641 001.

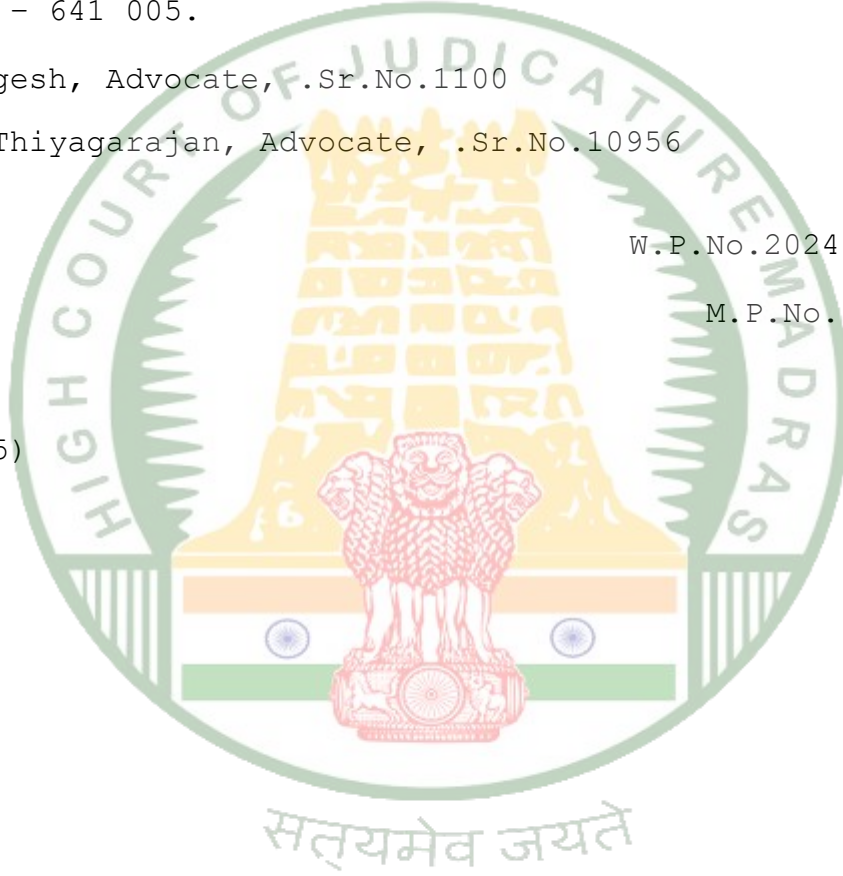
2.The Assistant Commissioner,
Coimbatore City Municipal Corporation,
East Zone, Trichy Road,
Solingnallur (PO)
Coimbatore - 641 005.

C.C. to Mr.Magesh, Advocate,.Sr.No.1100

C.C. to Mr.A.Thiyagarajan, Advocate, .Sr.No.10956

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And
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PA(CO)
RRI(30.03.2015)



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