

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.04.2015

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI  
AND  
THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.P.No.11069 of 2015

1. R. Ponnusamy

2. P. Subbathal

3. C.R.P. Manoharon

... Petitioners

Vs.

Coimbatore Municipal Corporation  
(West Zone Office),  
rep. By its Commissioner,  
Coimbatore 641 001.

... Respondent

This writ petition is filed under Article 226 of the Constitution of India praying for the issue of a writ of Certiorarified Mandamus calling for the records of the respondent pertaining to the Notice dated 27.3.2015 in the proceedings in Na.Ka. No.1757/2015/ M.H.1 (May) and quash the same and consequently forbear the respondent or its men and agents from interfering without possession and enjoyment of the land situate in S.F. Nos.411 and 415 Vadavalli Village, Coimbatore.

For Petitioners : Mr. K.M. Vijayan  
Sr. counsel  
for

M/s. K.M. Vijayan Associates

For Respondents : Mr. J. Sathyanarayana Prasad

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ORDER

(Order of the Court was made by SATISH K. AGNIHOTRI, J.)

Questioning the legality and validity of the notice dated 27.3.2015, the petitioners have come up with this writ petition on the ground that the impugned notice was passed directing to remove the encroachment within 48 hours from the date of receipt of the notice.

2. According to the petitioners, they are not encroachers and this property does not belong to any other person. The petitioners were not afforded a proper opportunity of hearing to put forward their case before passing such a stringent order of removal.

3. Learned counsel appearing for the respondent, on instructions received over phone, submits that the petitioners will be given full opportunity before passing a fresh order. He also submits that the symbolic possession of the property in question has already been taken.

4. Be that as it may, at this stage, we are unable to decide the disputed facts. The petitioners ought to have been given an opportunity of hearing to put forward their case before an order of removal was passed by the authority.

5. In that view of the matter, the impugned notice be treated as a show cause notice and the petitioners are given liberty to file a detailed reply/representation and the respondent, thereafter, shall pass appropriate orders, on merits and in accordance with law. We further make it clear that the respondent is expected to advert to each and every objection to be raised by the petitioners while passing the final order. Till the final order is passed, the alleged board indicating that the property belongs to the Corporation shall be removed.

6. With the above observations and directions, this writ petition stands disposed of. Consequently, M.P. No. 1 of 2015 is closed. No costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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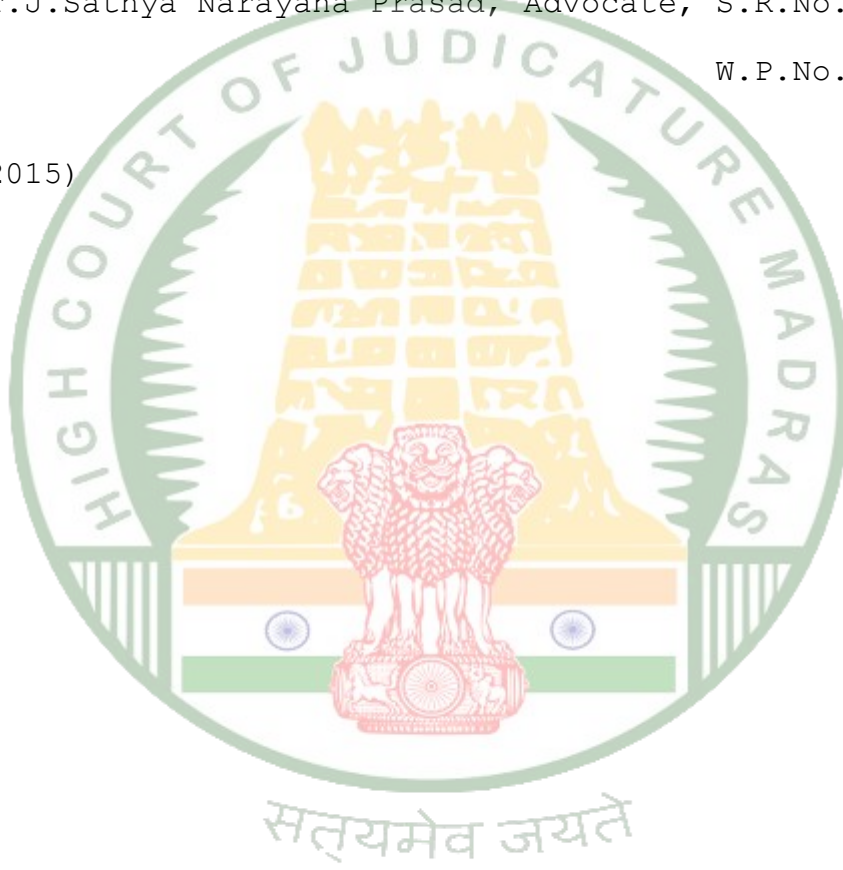
To

The Commissioner,  
Coimbatore Municipal Corporation  
(West Zone Office),  
Coimbatore 641 001.

+1cc to M/s.K.M.Vijayan Associates, Advocate, S.R.No.20861  
+1cc to Mr.J.Sathya Narayana Prasad, Advocate, S.R.No.20762

W.P.No. 11069 of 2015

KU(CO)  
CA(21/04/2015)



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