

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.04.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.7470 of 2011 &
M.P.Nos.1 & 2 of 2011

S.Umamaheshwari

... Petitioner

v.

1.The Executive Officer,
Suriyampalyam Panchayat,
Erode & District.

2.Kurinji Nanbarkal Narppani Mantram,
An NGO (Regd.29/2006)
Rep. By its President
R.Senthilkumar,
Amaravathi Nagar, R.N.Puthur,
Erode, Erode District.

((R2 Impleaded as per the order of this court
dated 16.4.2015 in M.P.No.1/2012 in
W.P.No.7470/2011

.... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus to call for the records in respect of the order of the respondent vide Na.Ka.No.37/2011, dated 18.2.2011 and quash the same and consequently, forbearing the respondent,t heir men and subordinates from interfering with the petitioner's peaceful possession and enjoyment of the land having Plot No.35 in R.S.No.269/1, 5 of Suriyampalayam Village, Erode Taluk & District.

For Petitioner : Mr.I.C.Vasudevan

For Respondents : Mr.M.Dhandapani - for R1
Mr.V.S.Kesavan - for R2

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ORDER

Heard Mr.I.C.Vasudevan, learned counsel appearing for the petitioner, Mr.M.Dhandapani, learned counsel appearing for the first respondent and Mr.V.S.Kesavan, learned counsel appearing for the second respondent and with their consent, the main writ petition itself is taken up for final disposal.

2. The petitioner has filed this writ petition challenging the order passed by the first respondent dated 18.2.2011 by which, her application for planning permission was cancelled on the ground that illegal construction has been made in the Panchayat land and also intimated to demolish the same at the cost of the petitioner.

3. The petitioner has raised various grounds in support of her contentions and primarily the impugned order has been challenged on the ground that the order passed by the first respondent is highly arbitrary, high handed and against the principles of natural justice. Further, she has stated that no enquiry was conducted and no opportunity of hearing was afforded to her to put-forth her contentions.

4. The learned counsel appearing for the petitioner submitted that if an inspection being conducted, the first respondent would have been satisfied with the title of the petitioner. Further, the learned counsel submitted that the petitioner's vendor viz., Selvi, had filed a suit in O.S.No.353 of 2009 on the file of Principal District Munsif Court, Erode and obtained a decree of permanent injunction. Therefore, it is submitted that an opportunity of personal hearing should be provided to the petitioner to put-forth her case.

5. Learned counsel appearing for the first respondent submitted that only on the complaint made by the petitioner, it came to light and accordingly proceedings were initiated and the said site has been reserved as a park and cannot be utilised or sold to any third party.

6. In the light of the complaint given by the petitioner alleging that there was no proper enquiry into the matter, this court is of the view that one more opportunity should be granted to the petitioner. Accordingly, without setting aside the order, the petitioner is directed to treat this impugned proceedings dated 18.2.2011 as show cause notice and shall submit her objections in writing within a period of two weeks from the date of receipt of a copy of this order and on receipt of the objections, the first respondent shall conduct enquiry into the matter with an opportunity of personal hearing to the petitioner

and the second respondent and pass reasoned order, on merits and in accordance with law, within a period of six weeks from the date on which the personal hearing is concluded.

The writ petition is disposed of with the above direction. No costs. Connected miscellaneous petitions are closed.

Sd/-

Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

Rj

To

- 1.The Executive Officer,
Suriyampalyam Panchayat,
Erode & District.
2. The President,
Kurinji Nanbarkal Narppani Mantram,
An NGO (Regd.29/2006)
Amaravathi Nagar, R.N.Puthur,
Erode, Erode District.

- 1 cc to Mr.I.C. Vasudevan, Advocate, Sr. 20965
1 cc to Mr.V.S. Kesavan, Advocate, Sr. 20900
1 cc to Mr.M. Dhandapani, Advocate, Sr. 21334

सत्यमेव जयते

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