

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2016

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE V. BHARATHIDASAN

W.P.No. 14496 of 2016
and
WMP No. 12672 of 2016

The Coimbatore District Textile Workers Union
Rep. by its Secretary
A. Subramanian
Reg.Off. 2212 Trichy Road,
Singanallur,
Coimbatore-641 005 and Branch
Office at Door No.229,
Pollachi Main Road,
Udumalpet,
Tirupur District. Petitioner

Vs

The Commissioner,
Udumalpet Municipality Municipality Office,
Udumalpet-642 126, Tirupur District. Respondents

Writ petition filed under Article 226 of the Constitution seeking for the issuance of a writ of Certiorari calling for the entire records pertaining to the notice cum order of the respondent in his proceedings in Na.Ka.No. 516/2016/F1 dated 24.03.2016 and quash the same so as to enable the petitioner to enjoy peaceful possession of his property.

For Petitioner : Mr. L. Chandrakumar
for
M/s. R. Selvakumar

For Respondent : Mr.A.S.Thambusamy

ORDER

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

Mr. A.S. Thambuswamy, learned counsel, accepts notice for the respondent. Thus, with the consent of the learned counsel for the parties, the writ petition is taken up for final disposal, at the admission stage itself.

2. Questioning the legality and validity of the notice dated 24th March, 2016 issued by the respondent, whereunder, the petitioner union was called upon to remove the encroachment made in Udumalpet Municipality Survey Ward No.B-Block, No.10, T.S.No. ½ & 10 classified as Natham Poramboke, the petitioner-union has come with the instant writ petition.

3. Learned counsel appearing for the petitioner-union submits that they purchased the property in question in the year 1968 and they are in possession of the same for a long period as a lawful owner of the said property. According to the petitioner-union, on receipt of the impugned notice, they made a representation to the respondent on 04 February 2016. Thus, a direction be issued to the respondent to consider their representation, conduct a proper enquiry and then take necessary action.

4. On the other hand, learned counsel appearing for the respondent pertinently points out that on a perusal of the impugned notice, it does not appear that any show cause notice was given to the petitioner-union.

5. We have heard the learned counsel for the parties and perused the pleadings and documents appended thereto.

6. On a bare perusal of the impugned notice, it is manifest that there is no reference of any show cause notice issued earlier nor is there any indication therein to the effect that the petitioner-union was afforded an opportunity of hearing. Thus, we are inclined to treat the impugned notice as a show cause notice. Since the petitioner-union has already submitted their reply to the impugned notice, they may be afforded an opportunity of personal hearing, if they so desire and consequential action be taken thereafter on merits and in accordance with law, within a period of four weeks. Needless to state that on proper enquiry, if it comes to light that there is

an encroachment, as alleged in the impugned notice, the respondent is competent to take immediate steps for removal of the said encroachment.

7. This writ petition stands disposed of with the above direction and observation. Consequently, W.M.P. No.12672 of 2016 is closed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

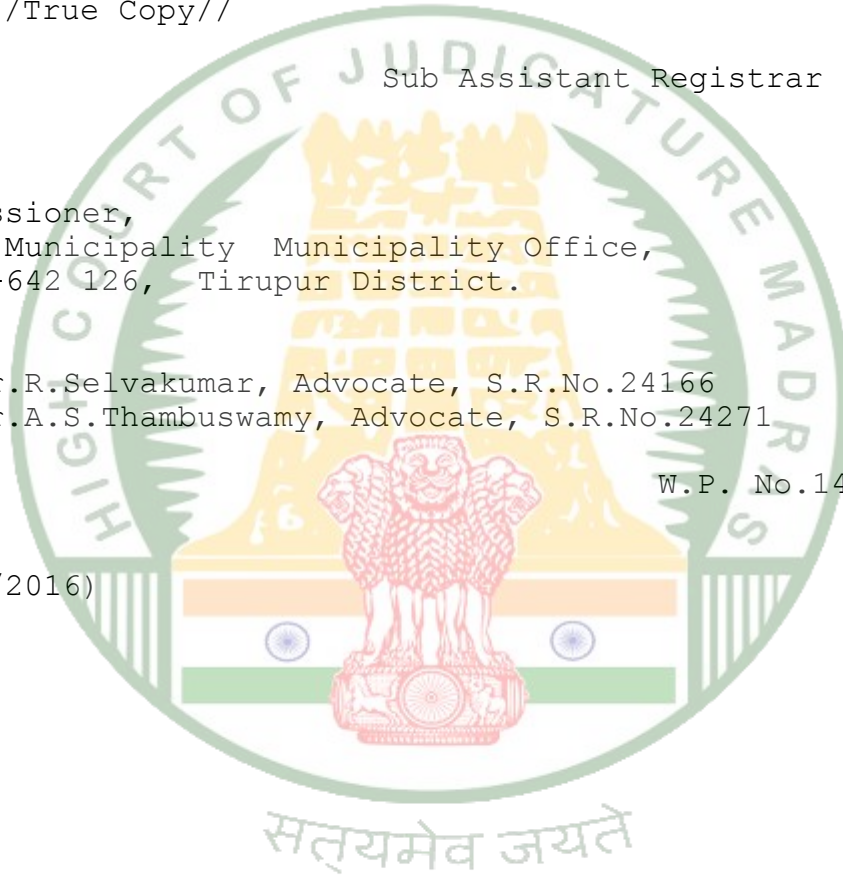
To

The Commissioner,
Udumalpet Municipality Municipality Office,
Udumalpet-642 126, Tirupur District.

+1cc to Mr.R.Selvakumar, Advocate, S.R.No.24166
+1cc to Mr.A.S.Thambuswamy, Advocate, S.R.No.24271

W.P. No.14496 of 2016

scd(CO)
srg(21/04/2016)



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