

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.02.2016

Coram :

THE HONOURABLE MR. JUSTICE T.S. SIVAGNANAM

W.P.No.4673 of 2016 &
W.M.P.Nos.4048 & 4049 of 2016

M.Muthusamy [PETITIONER]

Vs

1 The Commissioner
Tirupur City Municipal Corporation
Tirupur-641 604.

2 The Assistant Commissioner
Tirupur Corporation Zonal-3
Kangeyam Main Road,
Nallur-641 606,
Tirupur District. [RESPONDENTS]

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus to call for the records pursuant to the order passed by the 2nd respondent in Na.Kaa. No.E1/6076/2015 dated 19.11.2015 and to quash the same as illegal and to direct the respondent to remove the board put up in the front of the petitioner's property situated at Plot Nos.140 & 141 Jai Nagar, comprised in S.F. No.181/1, Kankeyam Main Road, Nallur, Tirupur, measuring an extent of 4800 sq.ft.

For Petitioner : Mr.S.Thiruvengadam

For Respondents : Ms.P.Shanthi
Standing Counsel

ORDER

Heard Mr.S.Thiruvengadam, learned counsel for the petitioner and Ms.P.Shanthi, learned Standing Counsel, appearing for the respondents and with the consent of the learned counsel appearing on either side, the Writ Petition is taken up for final disposal.

2.The petitioner seeks for quashing the order passed by the second respondent dated 19.11.2015 and to direct the respondents

to remove the board put up in the front of the petitioner's property situated at Plot Nos.140 & 141 Jai Nagar, comprised in S.F. No.181/1, Kankeyam Main Road, Nallur, Tirupur, measuring an extent of 4800 sq.ft.

3.Earlier the petitioner had approached this Court by filing a Writ Petition in W.P.No.36171 of 2015, wherein the petitioner sought for issuance of a writ of mandamus to remove the board put up in front of his property. The said Writ Petition was disposed of after hearing the learned Standing Counsel for the respondent Corporation to consider the representation as well as the documents submitted by the petitioner and pass orders after affording an opportunity of personal hearing to him. Thereafter, the impugned order has been passed contending that as the property in question has been approved as 'reserve site for General Purpose' the respondent Corporation is justified in erecting the Board.

4.The first ground of challenge is that the second respondent did not take into consideration the patta which has been issued in favour of the petitioner and without even affording an opportunity to produce the records, and without properly scrutinising the same, has passed the impugned order. From the counter affidavit it is seen that the respondents have taken a stand that the property in question is a 'reserved site'. However, there is no specific denial as regards the effect of the patta said to have been granted in favour of the petitioner.

5.If patta had been granted then the second respondent ought to have verified as to whether the said patta is co-relatable to the property in question or it is a different property or an adjoining property. However, such exercise appears to have not been done. Hence, on this ground, the impugned order calls for interference.

6.Accordingly, the Writ Petition is allowed, the impugned order is quashed and the matter is remanded to the second respondent for fresh consideration, who shall afford an opportunity of personal hearing to the petitioner, peruse patta and other documents produced by the petitioner and if necessary call for report from the Revenue Officials and then pass fresh orders on merit and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

rpa

To

1 The Commissioner
Tirupur City Municipal Corporation
Tirupur-641 604.

2 The Assistant Commissioner
Tirupur Corporation Zonal-3
Kangeyam Main Road,
Nallur-641 606, Tirupur District.

1 cc to Mr.S. Thiruvengadam, Advocate, Sr. 10070

+ 1 cc to Ms.P.Shanthi, Advocate Sr 2378 (29/3/16)

W.P.No.4673 of 2016

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