

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2017

CORAM

THE HON'BLE MR.HULUVADI G.RAMESH, THE ACTING CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE R.MAHADEVAN

Writ Appeal No.208 of 2017

M.Muthusamy

...Appellant/Petitioner

Vs.

1. The Commissioner
Tirupur City Municipal Corporation
Tirupur 641 604
Tirupur District.
2. The Assistant Commissioner
Tirupur Corporation, Zone 3
Kangeyam Main Road
Nallur 641 606
Tirupur District.
3. The Tahsildar
Kangeyam Main Road
Nallur 641 606
Tirupur District.

...Respondents/Respondents

Appeal under Clause 15 of the Letter Patent filed against the order of the learned single Judge dated 11.7.2016 made in W.P.No.21871 of 2016.

Prayer in WP.No.21871 of 2016:

Writ Petition under Article 226 of the constitution of India praying for issue of Writ of Certiorarified Mandamus to Calling for the records pursuant to the order passed by the 2nd respondent in Na. Ka. No. 864/E1/2016 dated 03.05.2016 and to quash the same as illegal and to direct the respondent to remove the board put up in the front of the petitioner property situated at plot Nos.140 & 141 Jai Nagar comprised in S.F.No.181/1 Kankeyam Main Raod Nallur Tirupur measuring an extent of 4800 Sq.ft

For Appellant : Mr.S.Thiruvengadam

For Respondents : Mr.M.K.Subramanian
Government Pleader

J U D G M E N T

(Delivered by the Hon'ble Acting Chief Justice)

Assailing the order of the learned single Judge dated 11.7.2016 made in W.P.No.21871 of 2016, the writ petitioner has come up with the above appeal.

2. The brief facts which led to the filing of the writ appeal is as follows:

The appellant had purchased a property bearing Plot Nos.140 and 141, comprised in S.F.No.181/1, Old Survey No.181, Nallur Village, Tiruppur Taluk, Tiruppur District vide sale deed dated 27.02.2006. In October 2015, a notice board was kept in front of the appellant's property stating that it belongs to the second respondent. The appellant approached the second respondent with relevant documents to prove his possession, but in vain and therefore, he filed a writ petition which was disposed of directing the respondents to consider the representation of the appellant and to pass orders. However, the representation of the appellant was rejected on the ground that the property in question is a reserved site. Challenging the said order, the appellant again filed a writ petition and the writ petition was disposed of setting aside the order of rejection and remanding the matter back to the second respondent for fresh consideration. Again, the second respondent rejected the representation of the petitioner. Therefore, the appellant filed W.P.No.21871 of 2016. In the said writ petition, the learned single Judge, after considering the documents produced before him, held that the appellant had purchased the plots earmarked for public purpose and since the appellant's vendor sub-divided the same as Plot Nos.140 and 141, the appellant cannot take advantage of the same and claim right over the said plots and therefore, dismissed the writ petition. However, taking note of the fact that the second respondent did not provide an opportunity to the appellant before passing the impugned order, the learned single Judge imposed costs on the second respondent. Hence, the writ appeal.

3. Heard Mr.S.Thiruvengadam, learned counsel for the appellant. Mr.M.K.Subramanian, learned Government Pleader takes notice for the respondents.

4. On a careful consideration of the documents filed before

this Court and a perusal of the order of the learned single Judge, it appears that the property purchased by the appellant was earmarked for public purpose. However, taking note of the fact and the main grievance of the appellant that he has not been afforded an opportunity of personal hearing to put forth his case, we are of the considered view that the appellant must be given an opportunity of personal hearing.

5. In view of the above, this writ appeal is disposed of, directing the appellant to make a representation to the second respondent within a period of two weeks from the date of receipt of a copy of this order and on receipt of such representation, the second respondent shall consider the same and pass orders, after affording an opportunity of personal hearing to the appellant and after verifying the documents produced by the appellant, within a period of three months. There shall be no order as to costs. Consequently, CMP No.3442 of 2017 is also dismissed.

Sd/-
Assistant Registrar

//True Copy//

kpl

Sub Assistant Registrar

To

1. The Commissioner
Tirupur City Municipal Corporation
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Tirupur District.
2. The Assistant Commissioner
Tirupur Corporation, Zone 3
Kangeyam Main Road
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Tirupur District.
3. The Tahsildar
Kangeyam Main Road
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Tirupur District.

+1cc to Mr.Thiruvengadam, Advocate, S.R.No.13276
+1cc to the Government Pleader, S.R.No.13718

AK(CO)
RS(16/03/2017)

W.A.No.208 of 2017