

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2017

CORAM :

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

W.P.No.27378/2017 & WMP.Nos.29275 & 29276/2017

S.V.Rangarajan Petitioner

Vs

1 The Commissioner
Coimbatore Corporation
Coimbatore.

2 The Assistant Commissioner
Coimbatore Corporation
Coimbatore.

3 The Executive Engineer [Planning]
City Municipal Corporation
Coimbatore.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India for issuance a Writ of certiorari calling for the entire records in Ka.Sa.No.471A and 1B on the file of the 3rd respondent in connection with the notice board of remove the encroachment dated 09.10.2017 and quash the same.

For Petitioner : Mr.N.Chinnaraj

For Respondents : Mr.J.Satyanarayana Prasad

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

By consent, the writ petition is taken up for final disposal. Mr.J.Satyanarayana Prasad, learned Standing Counsel accepts notice on behalf of the respondents.

2 The petitioner claims to have purchased the land admeasuring to an extent of 2220 sq.ft., in Veerakeralam

Village, S.No.47/A1, Coimbatore Taluk and District, through a registered Sale Deed bearing Doc.No.6136/2011 dated 25.08.2011 registered on the file of the Sub Registrar, Thondamuthur and yet another land in the very same survey number, admeasuring to an extent of 2294 sq.ft., or 5 cents and 116 sq.ft., through a registered Sale Deed bearing Doc.No.8145/2011 dated 17.11.2011, registered on the file of the very same Sub Registrar Office for a valuable consideration and would further claim that the superstructure put up on the said property is strictly in accordance with the Building Licence dated 14.10.2011 and however, to his shock and surprise, on the said lands, the 1st respondent has affixed a notice stating that the lands are meant for playground and it is under the maintenance and control of the Coimbatore Municipal Corporation and challenging the legality of the said notice affixed/put up on the said lands, the petitioner came forward to file the present writ petition.

3 The learned counsel for the petitioner has drawn the attention of this Court to the typed set of documents and would submit that as per the registered Sale Deeds dated 25.08.2011 and 17.11.2011 respectively, the petitioner is the owner of the lands in question and he is in possession and enjoyment of the sme and after obtaining building licence, he has also put up a superstructure strictly in accordance with the plan and without recourse to law, it is not open to the 1st respondent to affix/put up such a kind of notice and prays for interference.

4 Per contra, the learned Standing counsel appearing for the respondents would submit that as per the approved layout, the lands in question are classified as playground and it cannot be used for any other purpose and therefore, the 1st respondent has put up a notice indicating that it is a playground which is under the control and administration of the Coimbatore City Municipal Corporation.

5 The Court has considered the rival submissions and also perused the materials placed before it.

6 A perusal of the photograph at page No.30 of the typed set of documents would disclose that the notice has been put up/affixed on the Notice Board and admittedly, the petitioner has not been issued with any notice.

7 Since it is the claim of the petitioner that he is the owner of the lands in question through the registered Sale Deeds dated 25.08.2011 and 17.11.2011 respectively, this Court directs the 3rd respondent to issue a notice by invoking the relevant provisions of law within a period of two weeks from the date of receipt of a copy of this order and upon receipt of the same, the petitioner is at liberty to submit his response by enclosing

copies of the relevant and authenticated documents within a further period of four weeks thereafter and the 3rd respondent, upon receipt of the same, is directed to consider the reply to be submitted by the petitioner on merits and in accordance with law and pass appropriate orders within a further period of six weeks thereafter and communicate the decision taken, to the petitioner and till such time, shall defer further decision to dispossess the petitioner from the lands in question. It is also made clear that the petitioner, till the disposal of his representation to be submitted, shall not create any third party rights or alter the physical features of the lands and superstructure in question and in the meanwhile, the 3rd respondent is also directed to remove the notice board containing the notice from the lands in question and it is subject to the disposal of the reply/representation.

8 The writ petition stands disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CCC)

// True Copy//

Sub Assistant Registrar

AP

To

- 1 The Commissioner
Coimbatore Corporation
Coimbatore.
- 2 The Assistant Commissioner
Coimbatore Corporation
Coimbatore.
- 3 The Executive Engineer [Planning]
City Municipal Corporation
Coimbatore.

+1cc to Mr.N.Chinnaraj, Advocate SR.No.75241

+1cc to Mr.J.Sathya Narayan Prasad, Advocate SR.No.75143

WP.No.27378/2017

RR (CO)
GN (23/11/2017)