

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2017

CORAM :

The Hon'ble Mr. Justice M.M.Sundresh

W.P.Nos. 2944 to 2947 and 2949 to 2950 of 2017

and

W.M.P.Nos.2832 to 2836, 2838 to 2940,

5509 to 5511, 5513 and 5514 of 2017

+

W.M.P.Nos.5509,

W.P.No.2944 of 2017

Saranya

Murugavel

Vaithiyalingam

K. Natarajan

Shiva Kumar

Malathi

..Petitioner

2945/2017

2946/2017

2947/2017

2949/2017

2950/2017

Vs.

1.The Managing Director,
THADCO Senatop Street,
2nd Street, Chennai - 18.

2.The Commissioner,
Poonamallee Municipality,
No.1, Kandasamy Nagar,
Poonamallee,
Chennai.

3.The District Manager,
THADCO, Poonamallee,
Thiruvallur

..Respondents in all

Common Prayer :-

The Writ petition filed under Article 226 of the
Constitution of India, praying for issuance of a writ of

certiorari to call for the records of the 2nd respondent impugned notice No.Na.Ka.No.157/12/A1, dated 02/01/2017 and quash the same.

In all W.Ps.

For Petitioners : Mr.Thiruvengadam, for
Mr.M.E.V.Thulasi

For Respondents
1 &3 : Mr.P.V.Selvakumar
Additional Government Pleader

For Respondent-2 : Mr.R.Sivakumar

COMMON O R D E R

Heard Mr.Thiruvengadam, learned counsel, representing Mr.M.E.V.Thulasi, learned counsel for the petitioners, Mr.P.V.Selvakumar, learned Additional Government Pleader for respondents 1 and 3, and Mr.R.Sivakumar, learned counsel for the second respondent.

2. In view of the commonality of the issue involved in these Writ Petitions, these Writ Petitions are considered together and disposed of by this common order.

3. The petitioners have been allotted their respective shops, in pursuant to the order passed by the Government, vide G.O.Ms. No. 32 of Adi Dravidar and Tribal Welfare Department, dated 15.03.1995. As per the afore said Government Order, the ownership of the lands will be with second respondent, but the superstructure lies with the Tamil Nadu Adi Dravidar and Tribal Housing and Development Corporation. The petitioners got the allotment through the first and third respondents. By the impugned orders, the petitioners are asked to vacate the shops allotted to them on the premise that the land is required by the second respondent, for the purpose of constructing an office building. The said orders are sought to be predicated by the petitioners on the ground that they have not been put on notice. Instantly, it is submitted that the proposed construction is in some other place.

4. The learned counsel for the petitioners reiterated the above said two contentions.

5. The learned counsel for the second respondent would submit that, what has been given to the petitioners is only a mere permission over the land belonging to the second respondent. As the land is sought to be utilized by the second

respondent, there is no question of affording an opportunity of being heard. It is this land, which is the subject matter of the Writ Petitions, sought to be utilized for construction of building by the second respondent. By way of reply, the learned counsel for the petitioners would submit that there are alternative shops available, and therefore, the petitioners can be accommodated therein. The learned Counsel for second respondent denies the availability of the alternate shops.

6. Coming to the main contention raised herein, this Court does not find any merit. Admittedly, the land belongs to the second respondent. The petitioners are given mere permission to run their respective shops. Now, the very same land is sought to be utilized by the second respondent for constructing his office. There is no material to hold that the petitioners are being affected arbitrarily. Even in the earlier order, dated 25.10.2016, passed by this Court in W.P.Nos.34460 to 34462 of 2016, in re (Mr.Sivakumar and two others Vs. The State of Tamil Nadu. rep. by Secretary to Govt. and other) the said position is made clear, though the petitioners herein are not parties.

7. Therefore, this Court is of the view that, there is no question of affording any opportunity to the petitioners, which would at best, be an empty formality, apart from the fact that there is no privity of contract between the second respondent and respondents 1 and 3. However, considering the submission made by the learned counsel for the petitioners that there are alternative shops available, while dismissing the writ petitions, this Court is inclined to permit the petitioners to make applications to the second respondent for consideration of the availability of the alternative shops. Such a request has to be made within a period of one week from the date of receipt of a copy of this order. If the applications are made accordingly, the second respondent shall consider the same within the outer limit of four weeks thereafter. Till such time, Status quo prevailing as on today shall be maintained by both the parties.

8. In the result, the Writ Petitions are dismissed. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-

Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

To

1.The Managing Director,
THADCO Senatop Street,
2nd Street, Chennai - 18.

2.The Commissioner,
Poonamallee Municipality,
No.1, Kandasamy Nagar,
Poonamallee,
Chennai.

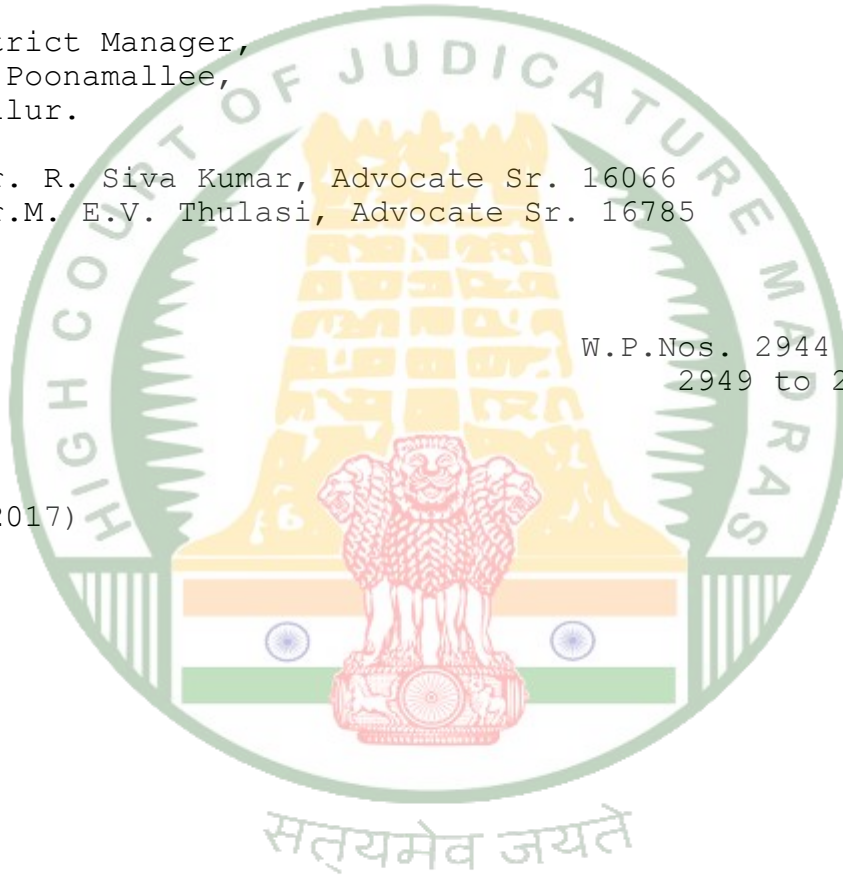
3.The District Manager,
THADCO, Poonamallee,
Thiruvallur.

+1cc to Mr. R. Siva Kumar, Advocate Sr. 16066

+1cc to Mr.M. E.V. Thulasi, Advocate Sr. 16785

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KS (CO)
VR(17/03/2017)



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