

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2017

CORAM :

The Hon'ble Mr. Justice M.M.Sundresh
Writ Petition Nos.2951 & 2952 of 2017
and

W.M.P.Nos.2841 & 5515 of 2017 &
WMP.No.2842 & 5516 of 2017

1. Rajkumar ... Petitioner in W.P.No.2951 of 2017

2. Damayanthi ... Petitioner in W.P.No.2952 of 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
both W.Ps.

PRAYER in both W.Ps.

This Writ Petition is filed under Article 226 of
Constitution of India, for issuance of Writ of Certiorari to
call for the records of the 2nd respondent, pertaining to the
impugned notice, bearing Na.Ka.No.157/12/A1, dated 02.01.2017
and quash the same.

For Petitioners : Mr. S. Thiruvengadam for
M/s.M.E.V.Thulasi

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

For Respondent-2 : Mr. R. Sivakumar, R2

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 alternate 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.

-s/d-

Assistant Registrar(DR)

True Copy

Sub-Assistant Registrar

To

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