

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No. 23205 of 2013

R.Palanichamy

.. Petitioner

vs.

1.The Coimbatore City
Municipal Corporation,
Rep. by its Commissioner,
Municipal Corporation Office,
Coimbatore 641 001.

2.The Assistant Commissioner,
West Zone,
Coimbatore City Municipal Corporation,
Coimbatore 641 002.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, to forbear the respondents their men, servants, agents, officers or any one claiming on their behalf from in any manner evicting the petitioner and demolishing the superstructures standing in Survey No.70/1 bearing Door No.1, V.N.R.Nagar, Vadavalli, Coimbatore - 641 041, except under due process of law.

For Petitioner : Mr.S.Subbiah

For Respondents : Mr.J.Sathya narayana prasad

ORDER

The petitioner has filed this writ petition to forbear the respondents from evicting the petitioner and demolishing the superstructures standing in Survey No.70/1 bearing Door No.1, V.N.R.Nagar, Vadavalli, Coimbatore - 641 041, except under due process of law.

2. The learned counsel for the petitioner submitted that, the subject matter of the property is situated in Survey No.70/1, bearing Door No.1, V.N.R Nagar, Vadavalli, Coimbatore 641 041. The aforesaid land belongs to the petitioner and he is paying the taxes regularly. Later, the Vadavalli Town

Panchayat merged with the first respondent Municipal Corporation. The land of the petitioner has been approved by the Executive Officer, Vadavalli Town Panchayat by the proceedings dated 13.05.1981 in the Planning Permission Nos.61 & 62 /81. The petitioner applied for patta in respect of Survey No.71/3A. The respondent has misunderstood as if the land stands in the name of the petitioner has been earmarked for public purpose and the Executive Officer of Vadavalli Town Panchayat by a letter dated 10.06.1992, called upon the petitioner to surrender his land stating that the land earmarked is allotted for public purpose. Thereafter, the respondent Corporation made an attempt to evict the petitioner from the said property. Hence, the petitioner has come forward with the petition with the aforesaid prayer.

3. The learned Standing Counsel appearing for the respondents has submitted that the afore said property has been encroached by the petitioner and the said property has been earmarked for the public purposes. Therefore, the petitioner cannot claim any legal right on the said property as he is not the absolute owner of the property and the petitioner is not entitled to any relief.

4. The learned Standing Counsel further submitted that in the similar circumstances, the Division Bench of this Court has passed an order in W.P.Nos.3410 and 3412 of 2014 dated 23.01.2017. Following the order, this Court may direct the petitioner to submit a representation along with the relevant materials and the respondent Corporation shall consider the same.

5. Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents Corporation.

6. The prayer in the writ petition is only for forbearing the respondent Corporation from evicting the petitioner and demolishing the superstructures standing in Survey No.70/1 bearing Door No.1, V.N.R.Nagar, Vadavalli, Coimbatore - 641 041, except under due process of law. Hence, at this stage, this Court will not decide the title of the property, which is beyond the scope of the prayer in the writ petition.

7. In similar matter, this Court passed orders in writ petitions. The relevant portion of the order passed by the Division Bench of this Court in W.P.Nos.3410 and 3412 of 2014 dated 23.01.2017, reads as follows:

"3.Since none represents the petitioners, we grant fifteen (15) days time from the date of receipt of the order to the petitioners to submit any material in support of their claim before the respondent Corporation and the

Corporation would take a call on the same within the maximum period of two (2) months thereafter."

8. Considering the facts and circumstances of the case, considering the submissions made by the learned Standing Counsel and in view of the order passed by the Division Bench of this Court, the petitioner is directed to submit his representation along with the materials to the respondent Corporation within a period of four weeks from the date of receipt of a copy of this order. Thereafter, the respondents Corporation shall consider the said representation of the petitioner and pass appropriate orders on merits and in accordance with law as expeditiously as possible.

9. Till such disposal of the representation submitted by the petitioner, the respondent Corporation shall not take any coercive action against the petitioner.

10. The Writ Petition is disposed of, on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

To

1.The Coimbatore City
Municipal Corporation,
Rep. by its Commissioner,
Municipal Corporation Office,
Coimbatore 641 001.

2.The Assistant Commissioner,
West Zone,
Coimbatore City Municipal Corporation,
Coimbatore 641 002.

+1cc to Mr. S. Subbiah, Advocate Sr. 11977

+1cc to Mr. J. Sathya Narayana Prasad, Advocate Sr. 11937

W.P.No.23205 of 2013

SKS (CO)
VR(23/03/2017)