

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 11.01.2018
CORAM
THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

W.P.No.21131 of 2014
and
W.M.P.No.1 of 2014

1.S.Mathialagan
2.S.Sivakumar

..petitioners

Versus

1.The commissioner,
Corporation of Triuppur,
Tiruppur.

2.V.Kumaravel
3.Gunasundari
4.Balaji

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of certiorari and to call for the records relating to the Impugned order dated 28.04.2014 passed in Na.Ka.No.3492/2013/E1 on the file of the 1st respondent herein and quash the same.

For petitioners : Mr.K.Govi Ganesan

For Respondents : Mr.S.Silambanan
Senior Counsel
for Ms.P.Shanthi for R1

No Appearance : For R2 to R4

O R D E R

This Writ petition has been filed challenging the order of the first Respondent dated 28.04.2014 passed in reference Na.Ka.No.3492/2013/E1.

2.The case of the petitioners is that the lands measuring an extent of 2.90 acres in SF.No.237 at Velampalayam Village, Tiruppur Taluk, originally belongs to the fore fathers of the respondents 2 to 4 and they got approval from the Deputy Director Town and Country Planning Coimbatore -Nilgiris vide approval bearing No.LP/R (CN) no.314/79. After verifying the necessary documents, the petitioners have purchased 14710 square feet vide sale deeds dated 27.10.1989 registered as document Nos.489/1998 and 490/1998. Subsequently, mutation in the revenue records has taken place in the name of the petitioners.

3.The petitioners have further submitted that they applied for planning permission with Velampalayam Town Panchayat, for construction of building, which was granted on 03.04.2003 and after obtaining planning permission, they completed construction in the year 2004 and they have been running a business in the name and style of "Yogesh Screen Printing". The property was assessed and they have been paying property tax regularly. The further case of the petitioners is that in the year 2011, Tiruppur Corporation was formed and the Velampalayam Village merged with Tiruppur City. While so, the impugned notice was issued stating that the petitioners have purchased the site which was reserved for public purpose and constructed a factory in it and therefore, they were directed to handover the property to the Corporation within 30 days.

4. Heard Mr.K.Govi Ganesh, learned counsel appearing for the petitioners and Mr.S.Silambanan learned Senior Counsel appearing for Ms.P.Shanthi, for the first respondent and perused the records.

5. The learned counsel for the petitioners contented that the petitioners have constructed the building as per the planning permission granted by the local body and they have invested about Rs.7 1/2 crores for running the business, however, the respondent, without issuing any notice and affording any opportunity to the petitioners, passed the impugned order.

6. Per contra the learned Senior Counsel by referring the counter filed by the first respondent submitted that on the basis of the complaints from the members of the Welfare Association, the respondent directed the petitioners to produce the building plan and after an enquiry, the impugned order was passed. It is further submitted that the building was constructed in the area allotted for public purpose, so there is no illegality in passing the impugned orders.

7. From the perusal of the records, it is evident that the petitioners have purchased the property to an extent of 14710 Sq.ft in an approved lay out by registered sale deeds in the year 1997 and they got building plan approval from local body in the year 2003. The order impugned in this Writ Petition is assailed mainly on the ground that it came to be passed in violation of the principles of natural justice. Though it is contended by the learned Senior Counsel for the first respondent, an opportunity was given to the petitioners before passing the impugned order, no evidence was produced in support of the contention.

8.In the light of the above fact, this Court is of the considered opinion that the impugned order passed by the first respondent in Na.Ka.No.3492/2013/E1 dated 28.04.2014 is liable

to be set aside and accordingly, it is set aside and the case is remanded back to the first respondent for fresh consideration. The Commissioner, Corporation of Tiruppur, is directed to give notice to the petitioner and pass orders on merits in accordance with law, after affording an opportunity to the petitioners.

9. With the above observations and directions, this writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

stm/dpq

To

The commissioner,
Corporation of Tiruppur,
Tiruppur.

+1cc to M/s.P.Shanthi, Advocate SR.No.2657/18

+1cc to Mr.K.Govi Ganesan, Advocate sr.No.2675

GP(co)

sm:6.2.2018

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