



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.03.2018

CORAM:

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM**and****THE HONOURABLE MRS.JUSTICE R.THARANI**

W.P(MD)Nos.10892, 10893, 15185 and 16514 of 2017

and

W.M.P(MD)Nos.8324, 8325, 11994, 11995, 11835 and 13145 of 2017

Orders reserved on 06.03.2018	Orders pronounced on 21.03.2018
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W.P(MD)No.10892 of 2017:

S.R.Kalyana Venkatarama Raja

.. Petitioner

Vs.The Commissioner,
Ambasamudram Municipality,
Tirunelveli District.

.. Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records relating with the impugned order passed by the respondent in Na.Ka.No.146/2016/H1, dated 26.05.2017 and quash the same as it is arbitrary and illegal and in consequence to direct the respondent to restore the property tax register, relating with the buildings bearing Door No.223 to 413 in S.No.370/A1 in Mela Amabasamudram, as its original position.

For Petitioner	: M/s.P.T.Asha, Senior Counsel for Mr.R.Suriyanarayanan
For Respondent	: Mr.K.Chellapandian, Additional Advocate General assisted by Mr.M.Rajarajan, Standing counsel.

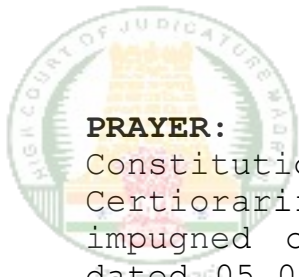
W.P(MD)No.10893 of 2017:

S.R.Kalyana Venkatarama Raja

.. Petitioner

Vs.The Commissioner,
Ambasamudram Municipality,
Tirunelveli District.

.. Respondent



PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records relating with the impugned order passed by the respondent in Na.Ka.No.146/2016/H1, dated 05.06.2017 and quash the same as it is arbitrary and illegal and against Section 267 of Tamil Nadu District Municipalities Act and in consequence to forbear the respondent from in any way interfere with the petitioner's right of running the weekly private market in the property in S.No.370/A1 in Mela Amabasamudram, except under due process of law.

For Petitioner : M/s.P.T.Asha, Senior counsel
for Mr.R.Suriyanarayanan
For Respondent : Mr.K.Chellapandian,
Additional Advocate General
assisted by
Mr.M.Rajarajan,
Standing counsel.

W.P(MD)No.15185 of 2017:

S.K.Subadhra

.. Petitioner

Vs.

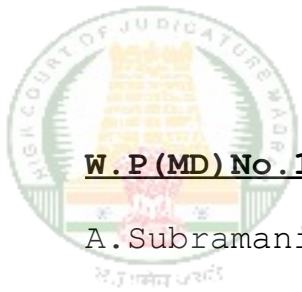
1. Ambasamudram Municipality
through its Commissioner,
Ambasamudram,
Tirunelveli District.
2. Mr.K.Pounraj,
Commissioner,
Ambasamudram Municipality,
Tirunelveli District.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records relating with the order passed by the first respondent in Na.Ka.No.146/2016/H1, dated 21.07.2017 and quash the same, as it is arbitrary and illegal.

For Petitioner : M/s.P.T.Asha, Senior counsel
for Mr.R.Suriyanarayanan
For Respondent No.1 : Mr.K.Chellapandian,
Additional Advocate General
assisted by
Mr.M.Rajarajan,
Standing counsel.

For Respondent No.2 : Mr.S.Meenakshisundaram,
Senior counsel for Mr.N.GA.Natraj



W.P(MD) No.16514 of 2017:

A.Subramaniam

.. Petitioner

WEB COPY

Vs.

1. Ambasamudram Municipality,
Ambasamudram, Tirunelveli District,
rep. by its Commissioner.

2. Kalyana Venkatarama Raja
3. S.K.Subathra

4. The District Collector,
Tirunelveli.

5. The Tahsildar,
Ambasamudram Taluk,
Tirunelveli District.
[Respondents 4 and 5 are *suo motu*
impleaded, vide order, dated
01.09.2017]

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the order passed by first respondent vide Na.Ka.146/2016/H1, dated 23.08.2017 and quash the same as illegal and may permit the vegetable vendors to do their business activities of vegetable vendors of Ambasamudram Vegetable Market situated in Survey No.370/A1 of Mela Ambasamudram Village on all Thursday and Saturday.

For Petitioner	: Mr.K.P.Narayanakumar
For Respondent No.1	: Mr.A.Kannan
For Respondent No.2	: M/s.P.T.Asha, Senior counsel for Mr.R.Suriyanarayanan
For Respondent No.3	: Mr.Joseph Arokiaraj
For Respondents 4 and 5	: Mr.D.Muruganandam, Additional Government Pleader.

COMMON ORDER

[Common Order of the Court was made by T.S.SIVAGNANAM, J.]

Since the issue involved in all these writ petitions, concerns a market situated within the jurisdiction of Ambasamudram Municipality and the petitioners in two writ petitions being one and the same person and the petitioner in W.P(MD)No.15185 of 2017 is his wife, the writ petitions were heard together and are disposed of by this common order.



2.W.P(MD)No.10892 of 2017 has been filed challenging a notice dated 26.05.2017, issued by the Commissioner of the respondent Municipality, stating that the petitioner is conducting a weekly market in a Government poromboke land and though notices were issued to the petitioner on 19.05.2017 and 24.05.2017, calling upon him to produce documents in support of his claim over the property, as documents were not produced, the Council of the respondent Municipality passed a resolution No.79, dated 25.05.2017, cancelling the Property Tax Registration, standing in the name of the petitioner, in respect of the said market.

3.W.P(MD)No.10893 of 2017 has been filed challenging the proceedings of the Commissioner of the respondent Municipality, informing the petitioner that he is carrying on the market without obtaining licence and therefore the petitioner is prohibited from carrying on the market in the said location.

4.W.P(MD)No.15185 of 2017 has been filed challenging the proceedings of the Commissioner of the respondent Municipality, dated 21.07.2017, stating that unauthorisedly the petitioner has constructed a building on Government land, in which a branch of Karur Vysya Bank is functioning. The Council of the respondent Municipality passed a resolution, dated 07.07.2017, cancelling the building permission and also directed the petitioner to produce necessary documents within fifteen days to show cause as to why the building should not be sealed/ demolished.

5.W.P(MD)No.16514 of 2017 has been filed by one A.Subramaniam, in which, the petitioner and the other writ petitioner have been impleaded as respondents 2 and 3 apart from the Commissioner of the respondent Municipality, District Collector, Tirunelveli District and Tahsildar, Ambasamudram Taluk, as the other respondents. The said Subramaniam seeks for issuance of writ of certiorarified mandamus to quash the proceedings of the Commissioner of the respondent Municipality, dated 23.08.2017, banning the functioning of the weekly market in the said location, pursuant to the filing of the writ petition in W.P(MD)No.10893 of 2017.

6.It would be relevant to point out that W.P(MD)Nos.10892 and 10893 of 2017 were heard by a Division Bench of this Court and by order, dated 20.07.2017, W.P(MD)No.10892 of 2017 was dismissed. The petitioner filed review applications in Review Application(MD)Nos.67 and 68 of 2017 and the Division Bench pointed out that they never intended to dismiss W.P(MD)No.10892 of 2017 and similarly interim order, which was granted in W.P(MD)No.10893 of 2017, which was not intended to be granted by the Court. Therefore, the Division Bench observed that the orders in both the writ petitions suffer from error apparent on the face of the record on account of the said interchanging. Accordingly, the orders dated 20.07.2017 and 27.07.2017 made in these two writ petitions were set aside and the review applications were allowed. This is how both the writ



petitions are before this Court and heard along with the two other connected writ petitions.

7. Heard M/s.P.T.Asha, learned senior counsel representing Mr.R.Suriyanarayanan, learned counsel appearing for the writ petitioners in W.P(MD)Nos.10892, 10893 and 15185 of 2017, Mr.K.P.Narayanakumar, learned counsel appearing for the petitioner in W.P(MD)No.16514 of 2017, Mr.K.Chellapandian, learned Additional Advocate General, assisted by Mr.M.Rajarajan, learned standing counsel appearing for the respondent Municipality, Mr.S.Meenakshisundaram, learned senior counsel representing Mr.N.Ga.Natraj, learned counsel appearing for the second respondent in W.P(MD)No.15185 of 2017 - the Commissioner of the Ambasamudram Municipality, who has been impleaded in his personal capacity, Mr.A.Kannan, learned counsel for the respondent Municipality in W.P (MD)No.16514 of 2017 and Mr.D.Muruganandam, learned Additional Government Pleader, appearing for the respondents 4 and 5 in W.P(MD) No.16514 of 2017.

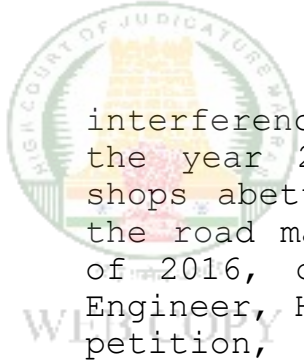
8.The short issue which falls for consideration in these writ petitions is whether the lands in Survey No.370/A1 is a Government poramboke land or a private property owned by the petitioners.

9.The case of the petitioners in W.P(MD)Nos.10892, 10893 and 15185 of 2017 is that the said land measuring to an extent of 1.52 acres in Mela Ambasamudram is a private land belonging to Oorkadu Jamin, vide 1908 Fasli Settlement Register. The last estate holder of the Jamin, one L.K.Rani, sold the land to Thiru.Veerabadhra Moopanar in the year 1966, who in turn sold the land to Thiru.S.S.Rajalinga Raja, the father of the petitioner - S.R.Kalyana Venkatarama Raja, in the year 1969, whose name found place in the Survey and Land Register, showing him as the owner of the property. During the year 2001, the land stood allotted to Thiru.S.R.Kalyana Venkatarama Raja and then was gifted to his wife, Tmt.S.K.Subadhra, the petitioner in W.P(MD)No.15185 of 2017 and his two daughters, who are stated to be in possession and enjoyment of the land in question.

10.It is further submitted that the respondent Municipality has assessed the property tax in the name of Thiru.S.S.Rajalinga Raja and at present in the names of S.K.Subadhra and others. During the year 2009, an attempt was made to interfere with the possession of the petitioners at the behest of the Highways Department and the Revenue Department on the ground that the land is a Government poramboke land. Tmt.S.K.Subadhra and her two daughters filed O.S.No.40 of 2009 on the file of the Additional District Munsif Court, Ambasamudram, impleading the District Collector, Highways Department and the Executive Officer of the respondent Municipality as defendants and a decree of permanent injunction was granted by Judgment and decree, dated 01.04.2011.

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11.After the decree of the Civil Court, there was no



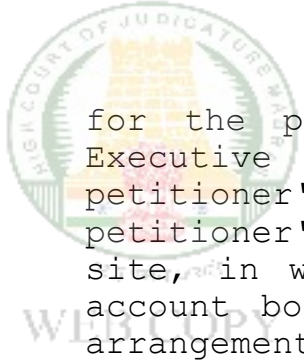
interference by the revenue officials and the Municipality, but in the year 2016, the Highways Department proposed to demolish the shops abetting the road, alleging that it is an encroachment into the road margin. Therefore, Tmt.S.K.Subadhra, filed W.P(MD)No.6651 of 2016, challenging the proceedings of the Assistant Divisional Engineer, Highways Department, dated 02.04.2016 and in the said writ petition, an order of interim stay was granted and the same is pending.

12.It is further submitted that the Commissioner of the respondent Municipality issued show cause notice dated 19.05.2017, alleging that the lands in Survey No.370/A1 is *sarkar poromboke* and the petitioner is running a private market without obtaining permission/ approval from the Municipality and the petitioner was directed to produce necessary documents to prove that he has obtained licence and that the petitioner is the owner of the said property and such documents to be produced before the Commissioner, within ten days from the date of receipt of the notice.

13.The petitioner in W.P(MD)No.10892 of 2017 would state that he submitted a detailed explanation through his counsel, dated 30.05.2017, which was sent by registered post with acknowledgment due and received by the office of the respondent Municipality on 02.06.2017. It is submitted that inspite of receiving the reply, the Commissioner of the respondent Municipality, by notice, dated 26.05.2017, stated that no reply was received from the petitioner and the Council of the respondent Municipality has resolved to cancel the Property Tax Registration granted in favour of the petitioner in respect of the properties. This notice is impugned in W.P(MD)No.10892 of 2017.

14.Subsequently, by notice, dated 05.06.2017, for the very same reason, the market was directed to be closed down, which is impugned in W.P(MD)No.10893 of 2017.

15.The learned counsel appearing for the petitioners in W.P (MD)Nos.10892, 10893 and 15185 of 2017 made elaborate reference to the documents annexed in the typed set of papers, namely, Original Settlement Register, relating to Survey No.370/A1, in the name of the Jamin for the Fasli 1318 [1908], agreement, dated 22.08.1965, entered into between L.K.Rani of Oorkadu Jamin and S.S.Rajalinga Raja, for running a private market, sale deed dated 02.11.1966, executed by L.K.Rani in favour of Thiru.Veerabathra Moopanar and another, sale deed dated 10.01.1969, executed by Veerabadhra Moopanar in favour of Thiru.S.S.Rajalinga Raja, extract of the Settlement Land Register, showing the entry in the name of Thiru.S.S.Rajalinga Raja, House Tax Demand Register from 1957-1958 to 1971-1972, showing assessments in the name of Thiru.S.S.Rajalinga Raja, the proceedings of the Executive Officer of the respondent Town Panchayat, dated 15.04.1975, renewing the licence for the private market, proceedings of the Executive Officer of the respondent Town Panchayat, dated 29.05.1976, renewing the licence



for the private market, copy of the legal notice sent by the Executive Officer of the respondent Town Panchayat to the petitioner's father and another, wherein it has been stated that the petitioner's father Thiru.S.S.Rajalinga Raja is the owner of the site, in which the weekly shandy is conducted and by the notice, account books were summoned from Thiru.S.S.Rajalinga Raja, family arrangement within the family of Thiru.S.S.Rajalinga Raja, dated 11.07.2001, gift deed executed in favour of Tmt.S.K.Subadhra and her daughters, dated 29.08.2005, the Judgment and decree in O.S.No.40 of 2009, dated 01.04.2011, copy of the Planning Permission obtained by the petitioner, for construction of a building in Survey No.370/A1, dated 03.04.2012.

16.By referring to all those documents, the learned counsel appearing for the petitioners in W.P(MD)Nos.10892, 10893 and 15185 of 2017 submitted that without considering any of these documents, without conducting any enquiry, under the false pretext that the petitioner has not submitted any objections to the notice, dated 19.05.2017, the Commissioner of the respondent Municipality in a high-handed manner, has passed the impugned orders, only with an intention of dispossessing the petitioners from their own private property.

17.Further, it is submitted that the private market has been in existence from the year 1963 and abundant materials are available to show that the petitioners have a right over the market and it is their land and without noting all these features, the Commissioner of the respondent Municipality acted with *mala fide* intention and that is why, he has been impleaded in his personal capacity in one of the writ petitions.

18.Further, for the first time, when they issued the notice, dated 19.05.2017, there is an allegation that the land is a Government poromboke land. The said conclusion is absolutely without any basis and contrary to the Government records. Furthermore, it is submitted that the cancellation of the Approved Plan and cancellation of the Property Tax Registration, have been made without issuing any notice and in violation of the principles of natural justice.

19.Further, it is submitted that the writ petition in W.P(MD) No.16514 of 2017 filed by one Mr.A.Subramaniam, who is a trader in the market is not maintainable and there is no public interest involved in the writ petition and the same is liable to be dismissed.

20.The learned Additional Advocate General appearing for the respondent Municipality submitted that the allegations of *mala fide* are absolutely false, vague and unsubstantiated and action has been initiated by the Commissioner of the respondent Municipality to retrieve the Government land, which has been encroached by the petitioners in W.P(MD)Nos.10892, 10893 and 15185 of 2017. It is



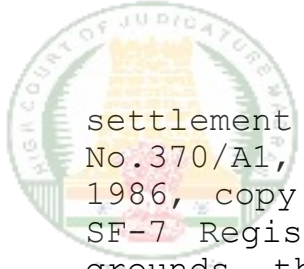
further submitted that the father of the petitioner in W.P(MD) No.10892 of 2017 was the Chairman of the Municipality and the assessments were made in his name. It is further submitted that the sale deed referred to in the 1966 document, is contrary to the revenue entries and the recital in the sale deed states that their predecessor purchased the land from L.K.Rani of Oorkadu Jamin and the said document pertains to 1.52 acres in Survey No.370/A1, which is a Government poromboke.

21.Further, it is submitted that after the Madras Estates (Abolition and Conversion into Ryotwari) Act, 1948 [Act XXVI of 1948], the petitioners in W.P(MD) Nos.10892, 10893 and 15185 of 2017, cannot rely upon the 1966 document and all transactions, if any, are null and void. It is further submitted that the State is the dominant owner of the property and after the first respondent became the local authority, the right of conducting market and regulating the market vests with the Municipality and the petitioners in W.P (MD) Nos.10892, 10893 and 15185 of 2017, have no right or title over the property, wherein the existing market is located.

22.Further, it is submitted that out of 19.23 acres in Survey No.370/A, they were subdivided as Survey No.370/A1 measuring 18.23 acres, Survey No.370/A2 measuring 0.97 acres and Survey No.370/A3 measuring 0.03 acres. The said Survey No.370/A1 was further subdivided as Survey No.370/A1 - 3.50 acres, Survey Nos.370/A4 to 9 and 11 - 2.63 acres and Survey No.370/A10 - 11.98 acres. Subsequently, Survey No.370/A2 - 0.97 acres was classified as Railway property and 12 cents of Revenue land totally 1.09 acre and house site patta was granted to certain individuals. Therefore, it is submitted that out of 19.23 acres, which have been subdivided as stated above in the table against Survey No.370/A1, the name of Thiru.S.S.Rajalinga Raja has been shown as Ground Rent tenant. Therefore, it is contended that the said persons have no right over the property in Survey No.370/A10 measuring an extent of 11.98 acres and they are encroachers into Government property and are not entitled to continue.

23.During pendency of these writ petitions, an interim direction was issued by the Court to survey the property and to submit a report. Accordingly, the Tahsildar, Ambasamudram, submitted a report dated 20.09.2017, along with sketch. In the report, it is stated that the alleged private market falls within Survey No.370/A10, measuring about 1.52 acres, which is totally a Government poromboke land. The sketch appended to the report shows the market area in red colour, other encroached portions in blue colour, streets in green colour and State Highways in yellow colour. Though there are several other encroachments in the blue coloured area, it seems no action was taken against those encroachers.

24.The learned Additional Advocate General appearing for the respondent Municipality has drawn the attention of this Court to the copy of the FMB sketch, copy of survey map of the year 1961 during



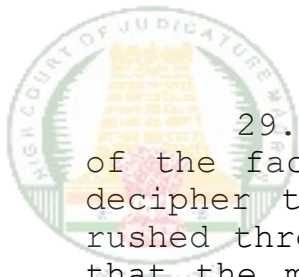
settlement survey, copy of FMB sketch after subdivision of Survey No.370/A1, copies of 'A' Registers for the years 1905, 1959 and 1986, copy of the Fair Land Register for the year 1958 and copy of SF-7 Register [correlation for Survey No.370/A10]. On the above grounds, the learned Additional Advocate General prays that the writ petitions filed by the petitioners be dismissed and the respondent Municipality should be permitted to take over possession of the property.

25.Mr.S.Meenakshisundaram, learned senior counsel, appearing for the Commissioner, who has been impleaded in his personal capacity, submitted that though his client has now been transferred, while exercising powers as the Commissioner, he had acted diligently and there is no vindictiveness in his action and the revenue records clearly show that the property is a Government poramboke land and the petitioners in W.P(MD)Nos.10892, 10893 and 15185 of 2017, have no semblance of right over the said land and the said S.S.Rajalinga Raja using his proximity to power, abused his position and converted the land as though it is a land belonging to his family, as during the relevant time, he was the Chairman of the Town Panchayat.

26.Mr.K.P.Narayanakumar, learned counsel appearing for the petitioner in W.P(MD)No.16514 of 2017 submitted that the endeavour of his client was only to open the market and he has nothing to say on the *inter se* dispute between the other petitioners and the Municipality.

27.After elaborate hearing, the learned counsels appearing for the parties and after carefully perusing the materials placed on record, we find that the title to the property in question is being disputed. The revenue records placed before the Court *prima facie* show that the land is a Government poramboke land. This Court exercising jurisdiction under Article 226 of the Constitution of India, cannot go into the disputed question of title, especially, when the petitioners in W.P(MD)Nos.10892, 10893 and 15185 of 2017, did not initiate any civil proceedings after coming into force of the Act XXVI of 1948.

28.The learned counsel appearing for the petitioners in W.P (MD)Nos.10892, 10893 and 15185 of 2017 and the learned Additional Advocate General appearing for the respondent Municipality, took great efforts to place before this Court various documents and revenue records to substantiate their respective stands. A writ proceeding cannot be converted into a civil proceeding to examine as to which of the documents produced by the warring parties, is true and valid. Therefore, if the petitioners claim right and title over the property, then it is for them to approach the Civil Court for appropriate declaratory relief. The decree obtained by the petitioner in O.S.No.40 of 2009 cannot advance their case as it is a suit for bare injunction. Having held so, we are required to test the correctness of the three impugned notices, which are put to challenge in W.P(MD)Nos.10892, 10893 and 15185 of 2017.

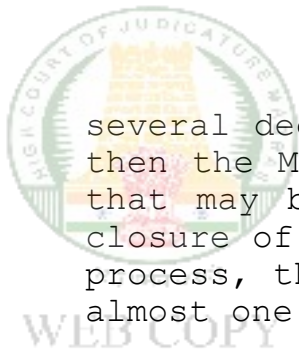


29. In the preceding paragraphs, we have narrated the sequence of the factual events, which took place, from which, we can easily decipher that the Commissioner of the respondent Municipality had rushed through the proceedings. There can be no denial of the fact that the market has been in existence for several decades and the properties have been assessed to tax and the petitioners claim that it has been done so from 1957-1958. Therefore, if the Commissioner of the respondent Municipality was convinced that there has been an abuse of official position, when the predecessor of the petitioner was occupying the post of Chairman, consequentially lead to making certain entries in the revenue records with regard to ownership of the property and changed the character of the property, a thorough exercise should have been done before action was initiated against the petitioners. Unfortunately, serious errors have occurred in the decision making process, apart from the decision itself. We say so because the show cause notice dated 19.05.2017 is bereft of particulars. What is now placed before us in the form of a counter affidavit, gives a different picture and it is for the first time in the counter affidavit and by way of report of the Tahsildar, Ambasamudram, new facts have been placed before the Court.

30. For a show cause notice to be effective, the allegation against the noticee should be precise. The notice should contain all relevant particulars so that the noticee has adequate opportunity to meet the allegations against him. Except for a bald averment in the show cause notice, dated 19.05.2017, stating that the property is a Government proomboke land, there is no clear recital as to how in the year 2017, for the first time, the Commissioner of the respondent Municipality came to the conclusion that the land was a Government poromboke land. Thus, the error which has occurred at the very inception i.e., at the stage of issuance of the show cause notice has gone to the root of the matter, thereby vitiating the decision taken thereon.

31. The petitioner in W.P(MD)No.10892 of 2017 has submitted a reply to the show cause notice on 30.05.2017. This reply is shown to have been received in the office of the respondent Municipality on 02.06.2017, as could be seen from the postal acknowledgment card. The impugned notice, dated 26.05.2017 was received by the petitioner, on 08.06.2017. The allegation is that the Commissioner ante dated the notice to get over the reply submitted by the petitioner. However, there is no specific material produced by the petitioner to establish these allegations.

32. In the notice, dated 26.05.2017, we find that there is a reference to Municipal Council Resolution No.79, dated 25.05.2017. The contents of the resolution or the decision taken thereon, has not been disclosed. This resolution has not been referred to, in the show cause notice, dated 19.05.2017. In the impugned notice, dated 05.06.2017, which bans the conduct of the public market, the very same allegations have been made, as found in the show cause notice, dated 19.05.2017. If the market has been in existence for



several decades, we are informed that it is for two days in a week, then the Municipality ought to have taken note of the inconvenience that may be caused to the public on account of abrupt and sudden closure of a market. Since errors have crept in the decision making process, the entire proceedings have come to a standstill and it is almost one year, the matters are before this Court.

33. It is the attempt made by the Commissioner of the Municipality in a zeal for recovery of an alleged Government property, has not yielded the desired result. Thus, every care should have been taken by the authority, before issuance of the show cause notice. Materials should have been fully disclosed in the show cause notice. Reasonable opportunity should have been granted to the petitioners to submit their objections in writing. An opportunity of personal hearing should have been afforded, as the matter involves appreciation of Government records. If opportunity was sought for by the petitioners for perusal of the same, that should have been extended. Unless these aspects are followed, the action would fail to satisfy the test of reasonableness as required under Article 14 of the Constitution of India. Thus, we are convinced that though the intention of the Commissioner of the respondent Municipality was to retrieve the Government property is laudable, the manner in which, he has done so, is flawed. Therefore, to that extent alone, we are inclined to interfere with the impugned notices dated 26.05.2017, 05.06.2017 and 21.07.2017.

34. The specific case of the petitioner in W.P(MD)No.15185 of 2017 is that the building, where the branch of the Karur Vysya Bank is situated, has been constructed after obtaining approval and therefore, sealing the premises will not be the solution. The respondent Municipality can verify its records and ascertain as to whether there was any application given for building plan approval, since the petitioner takes a stand that they had obtained approval for putting up the construction in the year 2012 and copy of such proceedings have been filed in Page No.80 of the typed set of papers, the correctness of the submission is required to be examined.

35. The learned Additional Advocate General pointed out that the said approval does not pertain to the said building. However, such stand was not taken by the respondent Municipality, while issuing the impugned notice, dated 05.06.2017.

36. As mentioned by us earlier, the entire proceeding has been done in a hasty manner, resulting in serious errors in the decision making process. Pursuant to interim orders granted in W.P(MD) No.16514 of 2017, the market is now managed departmentally and the employees of the respondent Municipality are collecting the rents payable on Thursdays and Saturdays. Thus, for the above reasons, we are inclined to set aside the impugned notices, dated 26.05.2017, 05.06.2017 and 21.07.2017, on the aforementioned technical ground alone. We make it clear that we have not rendered any finding on



the claim made by the petitioners that they are the absolute owners of the property and that they have licence to run a private market. Likewise, we have not expressed any opinion on the effect of the documents, which have been placed before the Court by the learned Additional Advocate General and that there is no licence issued to the petitioner in W.P(MD)Nos.10892 and 10893 of 2017 to run the private market. These issues can be decided only after a proper show cause notice issued to the petitioners in W.P(MD)Nos.10892, 10893 and giving them sufficient opportunity to submit objections and decisions to be taken based upon what we have indicated in the preceding paragraphs.

37. In the result,

(I) W.P(MD)Nos.10892, 10893 and 15185 of 2017:

(i) The writ petitions are allowed and the impugned notices, dated 26.05.2017, 05.06.2017 and 21.07.2017, are set aside.

(ii) The Commissioner of the respondent Municipality is directed to issue a comprehensive notice covering all aspects, mentioning clearly all details as to how the Municipality claims that the land is a Government poramboke land; that the documents relied on by the petitioners have no efficacy after coming into force of Act 26/1948 and why the Property Tax Registrations are required to be cancelled and why the building be treated as an unauthorised construction.

(iii) The petitioners are directed to submit their reply to the show cause notice and if any documents are required by them, the same can be sought for, which shall be furnished to the petitioners and on receipt of the reply, an opportunity of personal hearing should be granted to the petitioners, after which a reasoned decision should be taken on merits and in accordance with law.

(iv) The above exercise shall be completed by the Commissioner of the respondent Municipality, within a period of three months from the date of receipt of a copy of this order.

(v) The present arrangement, by which, the collection of rents from the Weekly Market is being made shall be continued and the rents shall be collected by the employees of the respondent Municipality and separate accounts should be maintained. The rents so collected be retained by the respondent Municipality and shall be abide by the fresh orders to be passed by the Commissioner in terms of the above mentioned directions.

No costs. Consequently, connected W.M.P(MD)Nos.8324, 8325, 11994, 11995, 11835 of 2017 are closed.

(II) W.P(MD)No.16514 of 2017:

In the light of the above directions, W.P(MD)No.16514 of 2017 is dismissed. No costs. Consequently, connected W.M.P(MD)No.13145 of 2017 is dismissed.

Sd/-

Assistant Registrar (T&P)

/True Copy/



To

1. The District Collector,
Tirunelveli.

2. The Tahsildar,
Ambasamudram Taluk,
Tirunelveli District.

3. The Commissioner,
Ambasamudram Municipality,
Tirunelveli District.

+ 3 CC TO Mr.R.SURIYANARAYANAN, ADVOCATE IN SR No. 57003
+ 1 CC TO Mr.R.SURIYANARAYANAN, ADVOCATE IN SR No. 57195
+ 1 CC TO Mr.S.JOSEPH AROCKIYARAJ, ADVOCATE IN SR No. 57004
+ 3 CC TO Mr.M.RAJARAJAN, ADVOCATE IN SR No. 56997 to 56999
+ 1 CC TO Mr.N.GA.NATRAJ, ADVOCATE IN SR No. 56982
+ 1 CC TO Mr.K.P.NARAYANAKUMAR, ADVOCATE IN SR No. 57407

SMN

TE/SKN-RSK/SAR-3 : 10/04/2018 : 13P/14C

COMMON ORDER MADE IN
W.P (MD) Nos. 10892, 10893, 15185 and 16514 of 2017
and W.M.P (MD) Nos. 8324, 8325, 11994, 11995,
11835, 13145 of 2017
21.03.2018