



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.10.2021

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CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.Nos.26334 of 2003 and W.P.(MD).No.11292 of 2010

H.S.Mohaideen

... Petitioner
in W.P.No.26334 of 2003

.Vs.

- 1.The State of Tamil Nadu rep.by
Secretary to Government
Municipal Admn. & Water Supply Department
Fort St.George
Chennai 600 009.
- 2.The Commissioner
Municipal Administration
Chepauk
Chennai 600 005.
- 3.The District Collector of Ramanathapuram
Collectorate
Ramanathapuram.
- 4.The District Revenue Officer
Ramanathapuram.
- 5.The Assistant Director
Survey & Land Records
Ramanathapuram.
- 6.Paramakudi Municipality
rep.by its Chairman, Municipal Office
Paramakudi 623 707.



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7.The Commissioner
Paramakudi Municipality,
Municipality Office,
Paramakudi 623 707.

... Respondents
in W.P.No.26334 of 2003

Prayer in W.P.No.26334 of 2003:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents to provide adequate compensation or suitable alternative site for the portions of the petitioner's land being 490 sq. meter in T.S. No.53 encroached by respondents 6 & 7.

For Petitioner : Mr.S.C.Viswanath
(in W.P.No.26334 of 2003)

For Respondents : Mr.Mr.U.Baranidharan
(in W.P.No.26334 of 2003) Government Advocate
for R 1 to R 5

Mr.P.Srinivas
Standing Counsel
for R 6 and R 7

Paramakudi Municipality
Rep.by its Commissioner
Municipal office, Paramakudi 623 707
Ramanathapuram District.

..Petitioner
in W.P.(MD).No.11292 of 2010

v.

1.The District Revenue Officer
Ramanathapuram
Ramanathapuram District.

2.The District Collector
Ramanathapuram
Ramanathapuram District.

3.H.S.Mohaideen

..Respondents
in W.P.(MD).No.11292 of 2010



Prayer in W.P.(MD).No.11292 of 2010:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records in connection with the impugned order of the 1st respondent vide proceeding ref Mu Mu(B4) 40404/2002 dated 27.11.2002 and quash the same and consequently direct the 1st respondent to restore the entry made in the revenue records in the name of petitioner, in respect of TS No.51 (part) and TS No.53, Paramakudi Town.

For Petitioner : Mr.P.Srinivas
(in W.P.(MD).No.11292/2010)

For Respondents : Mr.Mr.U.Baranidharan
(in W.P.(MD).No.11292/2010) Government Advocate
for R 1, R 2

Mr.S.C.Viswanath
for R 3

COMMON ORDER

The issue involved in both the writ petitions are common and hence they are taken up together, heard and disposed of through this common order.

2.W.P.No.26334 of 2003, has been filed for the issue of a writ pf mandamus directing the respondents to pay the compensation to the petitioner or to provide alternative site to the petitioner to an extent of 490 Sq.meters

3.The Paramakudi Municipality has filed W.P.(MD).No.11292 of 2010, challenging the order passed by the DRO, Ramanathapuram dated 27.11.2002 and for a consequential direction to the respondents to restore the entries made in the revenue records in the name of the Municipality with respect to the subject property.

4.Head the learned counsel for the petitioner int he respective writ petitions and the learned Government Counsel appearing on behalf of the respondents.

5.The dispute involved in the present writ petition pertains to an extent of 490 Sq.meters situated in TS.No.51

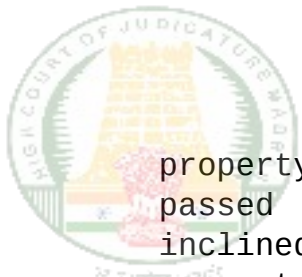


(part) and TS.No.53. Originally this property stood in the name of the Vendor of the petitioner in W.P.No.26334 of 2003. It is stated that he had permitted the Municipality to use the land and thereby a bus stand has also been put up by the Municipality and it is operational. It is claimed by the Municipality that even after the petitioner in W.P.No.26334 of 2003, purchased the property, he permitted the Municipality to hold the property and even when a cinema theatre was constructed by the petitioner, the subject property was only shown as a bus stand. Therefore, a stand has been taken by the Municipality that the parties by their conduct and acquiescence have permitted the Municipality to use the property for more than 30 years and all of a sudden the petitioner has turned around and he is now claiming right over the property where the bus stand is operational.

6.The petitioner in W.P.No.26334 of 2003, is seeking for compensation on the ground that the property belonging to him has been knocked of by the Municipality without paying any compensation and a bus stand has been put up. On the other hand, the grievance of the Municipality seems to be that the DRO through proceedings dated 27.11.2002, has passed an order without issuing any notice to the Municipality and had cancelled the entry made in the revenue records in the name of the Municipality and the name of the petitioner in W.P.No.26334 of 2003, was directed to be replaced and a patta was also directed to be issued to the petitioner.

7.The above order passed by the DRO was not passed on any application made by the petitioner in W.P.No.26334 of 2003, and this order was passed without issuing any notice to the Municipality. Curiously, the DRO has passed an order based on the notice received under Section 80 of Civil Procedure Code 1908, issued by the counsel appearing on behalf of the petitioner.

8.The order passed by the DRO dated 27.11.2002, is vitiated since it is in violation of the principles of natural justice. The Municipality has not been heard and such an order will result in civil consequences since there is already a bus stand is in existence. Therefore, this Court has to necessarily interfere with the impugned order passed by the DRO, dated 27.11.2002. The petitioner in W.P.No.26334 of 2003, is seeking for compensation based on the fact that he is the owner of the



property and obviously the petitioner relies upon the order passed by the DRO. In view of the fact that this Court is inclined to interfere with the order passed by the DRO, the payment of compensation to the petitioner does not arise at this point of time.

9. In view of the above discussion, the impugned order passed by the DRO, Ramanathapuram, dated 27.11.2002, is hereby quashed. There shall be a direction to the DRO, Ramanathapuram, to issue a fresh notice to the petitioner in W.P.No.26334 of 2003, and also the Paramakudi Municipality. The parties shall be given an opportunity to place all the materials and thereafter the DRO shall pass appropriate orders on its own merits and in accordance with law, within a period of three months from the date of receipt of copy of this order. Depending upon the order passed by the DRO, the parties can workout their rights.

10. Both the writ petitions are disposed of accordingly.
No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

KP

To

1. The State of Tamil Nadu rep.by
Secretary to Government
Municipal Admn. & Water Supply Department
Fort St. George
Chennai 600 009.

2. The Commissioner
Municipal Administration
Chepauk
Chennai 600 005.

3. The District Collector of Ramanathapuram
Collectorate
Ramanathapuram.



4.The District Revenue Officer
Ramanathapuram.

5.The Assistant Director
Survey & Land Records
Ramanathapuram.

6.Paramakudi Municipality
rep.by its Chairman, Municipal Office
Paramakudi 623 707.

7.The Commissioner
Paramakudi Municipality,
Municipality Office,
Paramakudi 623 707.

+1cc to M/s.S.C.Vishwanth, Advocate, S.R.No.52701

+1cc to the Government Pleader, S.R.No.53168

W.P.Nos.26334 of 2003 and
W.P.(MD).No.11292 of 2010

RLD(CO)
SB(27/10/2021)