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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
AND
THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.NOS.805, 808, 820, 1076, 1089, 1312, 1347, 2107, 2292, 2732 AND 2740 OF 2022 AND W.M.P. NOS.879, 880, 881, 882, 894, 1138, 1139, 1150, 1426, 1429, 1461, 2265, 2267, 2458, 2460, 2896 AND 2901 OF 2022

P.ARUKKANIAMMAL
... PETITIONER in WP No.805 of 2022

D.GOKILAM
... PETITIONER in WP No.808 of 2022

ISSABEL CATHRINRANI
... PETITIONER in WP No.820 of 2022

VAJEEHA BANU
... PETITIONER in WP No.1076 of 2022

S.KUMAR
... PETITIONER in WP No.1089 of 2022

N.AMIRTHAVALLI
... PETITIONER in WP No.1312 of 2022

S.KUMAR
... PETITIONER in WP No.1347 of 2022

R.KARUPPUSAMY
... PETITIONER in WP No.2107 of 2022

A.PREMA
... PETITIONER in WP No.2292 of 2022

P.GOVINDARAJ
... PETITIONER in WP No.2732 of 2022

P.KANDHASAMY
... PETITIONER in WP No.2740 of 2022

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vs

1. The Commissioner,
   Tiruppur City Municipal Corporation,
   Tiruppur.

2. The Assistant Commissioner,
   Zone-3,
   Tiruppur City Municipal Corporation,
   Tiruppur.

3. The District Collector,
   Tiruppur,
   Tiruppur District.

4. The Tahsildar,
   Tiruppur,
   Tiruppur District.

... Respondents in all WPs

Common Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus to call for the records of order dated 26.11.2021 vide proceedings in Na.Ka.No.E1/3742/2021/M3 on the file of 2nd respondent and quash the same and consequently direct the first respondent to consider the petitioner representation dated 29.12.2021 within stipulated time fixed by this Court.

For Petitioners in all cases : Mr.K.Myilsamy

For Respondents in all cases : Mr.S.Silambanan,
Additional Advocate General,
assisted by
Mrs.P.Shanthi,
Standing Counsel for R1 and R2

Mr.A.Selvendran,
Special Government Pleader
for R3 and R4

COMMON ORDER

[Order of this Court was delivered by T.RAJA, J.]

In these writ petitions, the impugned orders are identical. Therefore, it would be sufficient to refer to the facts in W.P. No.805 of 2022.

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W.P. No.805 of 2022

The petitioners have come to this Court, challenging the proceedings in Na.Ka.No.E1/3742/2021/M3 dated 26.11.2021 passed by the Assistant Commissioner, Zone-3, Tiruppur City Municipal Corporation, Tiruppur, the 2nd respondent herein and seeking a direction to the Commissioner, Tiruppur City Municipal Corporation, Tiruppur, the first respondent herein to consider their representation dated 29.12.2021 within a stipulated time fixed by this Court.

2.Learned counsel appearing for the petitioners submitted that the vacant land, measuring to an extent of 7 cents, comprised in S.No.237, (T.S. No.1185) situated at Kangeyam Palayam Pudhur, Pushpa Nagar, Tiruppur and Tiruppur District, originally belonged to one Muthusamy Gounder. While so, one Velumani had purchased the said property from him vide registered Sale Deed dated 30.09.1975 and after purchase, he constructed a house and resided there along with his family members by paying water tax, property tax etc. Learned counsel for the petitioners further submitted that the petitioner in W.P. No.805 of 2022 had purchased the above property for valid sale consideration through registered Sale Deed dated 01.03.1978 and thereafter, she has been enjoying the said property without any interruption. Thus, she became an absolute owner of the above property by paying necessary taxes. While so, the Assistant Commissioner, Zone-3, Tiruppur City Municipal Corporation, Tiruppur, the 2nd respondent herein passed impugned orders/notices dated 26.11.2021 under Sections 258(1)(2) and 441 (a) of the Tiruppur City Municipal Corporation Act, wherein the petitioners were directed to remove the building within seven days from the date of receipt of the impugned orders, which are invalid and unjustified.

3.Learned counsel for the petitioners further submitted that in the impugned orders, nowhere the respondents have stated the extent of the land, in which the petitioners have constructed their houses by encroaching the land belonging to the Corporation. Even in the written instruction dated 11.10.2021, the respondents have not mentioned as to which portion of the property has been identified as encroachment. Therefore, when the respondents have not made any definite extent or other particulars about the encroachment against the petitioner, a detailed enquiry could be conducted and based on the enquiry, the respondents can take further action in the manner known to law and the petitioners will co-operate with the enquiry to be conducted.

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4.Reiterating the averments made in the counter affidavits filed by the Commissioner, Tiruppur City Municipal Corporation, Tiruppur, the first respondent herein, learned Additional Advocate General appearing for respondents 1 and 2 submitted that the petitioners have purchased certain extent of land from different vendors in Pushpa Nagar and Periya Thottam Santhu in respective S.Nos.237, 238 and 238/1 (T.S. Nos.1185 and 1186/1) and constructed houses in such land and they are residing in the same place by paying necessary taxes to the competent authority. On 28.10.2021, a complaint was given by the Pushpa Nagar Residence Welfare Association to the District Revenue Officer of Tiruppur to stop the sale of educational purpose reserve land in Old T.S. Nos.237 and 1185, Tiruppur Town by the individual person and the same was forwarded to the Commissioner of Tiruppur for taking necessary and proper action. In the above said letter, it has been found that some persons have illegally sold and purchased the property belonging to the Commissioner of Tiruppur Corporation and registered the property in their names through various sale deeds using fake documents and constructed residential buildings in the said lands and residing their illegally for certain years. Therefore, on 26.11.2021, the Tiruppur Corporation have passed orders directing the encroachers to evict the illegal encroachments in the said area and as per the orders, notices have been sent to all the encroachers, who are illegally residing in the land belonging to the Commissioner of Tiruppur and to vacate the buildings within seven days from the receipt of the said notices. Even after receipt of the said notices, the illegal encroachers/the petitioners herein are refusing to vacate the property, belonging to the Commissioner of Tiruppur Corporation. Thereafter, the petitioners have made representations to the respondents not to evict them from their own property stating that they are paying taxes to the Tiruppur Corporation and also making contention that they are having ration card and aadhar card in the said addresses. The representations made by the petitioners were carefully considered and proper enquiries were also made by the concerned authorities in respective departments. As per the said survey and enquiry, it was found that the petitioners are illegally encroaching the land belongs to the Commissioner of Tiruppur Corporation and therefore, the impugned orders have been passed against the petitioners only after thorough enquiry. However, the respondents are prepared to conduct fresh enquiry.

5.Learned counsel for the petitioners submitted that the petitioners have come forward to co-operate with the enquiry. Therefore, learned counsel for the petitioners requested us to grant a week's time to give a detailed representation with supporting documents, revenue records, sale deed etc.

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6.This Court, accepting the request made by the learned counsel for the petitioners, is inclined to grant a week's time to the petitioners to give a fresh representation to the competent authority. Accordingly, the petitioners are permitted to give a fresh representation to the Commissioner, the first respondent herein within a period of one week from today. On receipt of the representation from the petitioners, the second respondent is hereby directed to hold enquiry, on the basis of the revenue records and other supporting documents to be produced by the petitioners and pass a speaking order stating the extent of the land, in which the petitioners are encroaching, if there is any encroachment, after giving personal opportunity of hearing to the petitioners, within a period of two weeks from the date of receipt of the representations from the petitioners.

7.With the above directions, the writ petitions stand disposed of. Consequently, connected W.M.Ps are closed. No costs.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

vga

To

1. The Commissioner,
   Tiruppur City Municipal Corporation,
   Tiruppur.
2. The Assistant Commissioner,
   Zone-3, Tiruppur City Municipal Corporation,
   Tiruppur.
3. The District Collector,
   Tiruppur, Tiruppur District.
4. The Tahsildar,
   Tiruppur, Tiruppur District.

+1cc to the Government Pleader, S.R.No.23649

W.P.Nos.805, 808, 820, 1076, 1089, 1312, 1347, 2107, 2292, 2732 and 2740 of 2022 and W.M.P. Nos.879, 880, 881, 882, 894, 1138, 1139, 1150, 1426, 1429, 1461, 2265, 2267, 2458, 2460, 2896 and 2901 of 2022

VBM(CO)
RLP(07/04/2022)

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