



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.05.2022

CORAM

THE HON'BLE MR.JUSTICE R.MAHADEVAN
AND
THE HON'BLE MRS.JUSTICE S.ANANTHI

W.P.NO.11986 OF 2022
AND
W.M.P.NOS.11405 & 11406 OF 2022

R.Mohan

... Petitioner

Vs

State of Tamil Nadu represented by

1. The Corporation Commissioner,
Tiruppur City Municipal Corporation,
Mangalam Road,
Tiruppur - 641 604.
2. The Assistant Commissioner,
Tiruppur City Municipal Corporation,
Mangalam Road,
Tiruppur-641 604.
3. The District Collector,
Collectorate, Karuppa Gaundanpalayam,
Tiruppur-641 604.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records connected with the 2nd respondent's impugned order in Na.Ka.No.E1/232/Ma. No.1/2017 dated 25.03.2022 and to quash the same and consequently direct the 1st and 2nd respondents to consider the petitioner's representations dated 26.12.2021 and 05.04.2022 after according an opportunity of personal hearing.



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For Petitioner : Mr.N.Shanmuga Thayumanavan
For Respondents : Mr.A.Selvendran
Special Govt. Pleader for R1 & R2
Mrs.Anitha
Special Govt. Pleader for R3

O R D E R

(Order of the Court was made by R.MAHADEVAN, J.)

The prayer made in this writ petition is to issue a Writ of Certiorarified Mandamus calling for the records relating to the order of the 2nd respondent in Na.Ka.No.E1/232/Ma. No.1/2017 dated 25.03.2022, quash the same and consequently direct the 1st and 2nd respondents to consider the petitioner's representations dated 26.12.2021 and 05.04.2022 after an opportunity of personal hearing to him.

2.The case of the petitioner is that he had inherited the property comprised in S.F.No.289/14 situated at 15, Velampalayam Village, Tiruppur North, vide a registered partition deed dated 18.02.2002 bearing Doc.No.684/2002 on the file of the Joint II Sub Registrar, Tiruppur. Subsequently, he and his 9 other relatives had executed a gift deed dated 15.09.2000 for handing over a piece of land comprised in S.F.No.289/1 to 289/23 to be used as a public pathway in favour of the Executive Officer, 15, Velampalayam Town Panchayat and thereby, the petitioner relinquished his title to an extent of 0.05 cents in S.F.No.289/14. It is further stated by the petitioner that thereafter, he had constructed a house in the said property and the said construction was regularised by way of a rectification order issued by the Executive Officer, 15, Velampalayam Town Panchayat, on 05.04.2002. While so, he received a notice dated 24.12.2021 under Section 258(4) read with Section 441 of the Tiruppur City Municipal Corporation Act, 2008, wherein, it was stated that he has encroached an extent of 175 sq.ft. in the corporation Road in Ka.Sa.No.289. Upon receipt of the same, he sent his response by way of representation dated 26.12.2021 along with supportive documents to the respondents 1 to 3, explaining that there was no encroachment as alleged in the said notice. Without considering the said reply in proper perspective, the second respondent passed an order dated 25.03.2022 informing that action will be initiated to remove the encroachment. Immediately, the petitioner sent another representation dated 05.04.2022 explaining the actual position and requesting to drop the same. However, apprehending that the



respondent authorities would take coercive steps against the petitioner, the present writ petition came to be filed with the aforesaid prayer.

3.The learned counsel for the petitioner submitted that the petitioner's house is situated within his extent, excluding the extent of 0.05 cents given to the Executive Officer, 15, Velampalayam Town Panchayat for the purpose of public road vide gift deed dated 15.09.2000 and there was no encroachment in the subject property, as alleged in the notice dated 24.12.2021 issued by the respondent authorities. The learned counsel further submitted that without any inquiry and verification of the relevant records, the second respondent mechanically passed the order impugned herein, that too, without providing any opportunity of personal hearing to the petitioner, which is arbitrary, illegal and in violation of the principles of natural justice. It is also pointed out by the learned counsel that in the impugned order, Ka.Sa.number has been stated as 289/8pt, whereas the petitioner's property is situated in Ka.Sa.No.289/14. Therefore, the learned counsel sought to allow this writ petition by quashing the order impugned herein.

4.The learned Special Government Pleader appearing for the respondents fairly submitted that the respondent authorities would initiate action against any encroachment, only after following due process of law. He further submitted that the petitioner's representations would be considered, before taking any steps by the authority concerned.

5.Recording the submissions made on the side of the respondents, this court directs the respondent authorities to consider the representations of the petitioner dated 26.12.2021 and 05.04.2022, and pass orders, on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner as well as any other interested parties, within a period of eight weeks from the date of receipt of a copy of this order.

6.The writ petition is disposed of in the above terms. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar/Vacation Officer

//True Copy//

Sub Assistant Registrar

KST/RPP



To

1. The Corporation Commissioner,
Tiruppur City Municipal Corporation,
Mangalam Road,
Tiruppur - 641 604.
2. The Assistant Commissioner,
Tiruppur City Municipal Corporation,
Mangalam Road,
Tiruppur-641 604.
3. The District Collector,
Collectorate, Karuppa Gaundanpalayam,
Tiruppur-641 604.

+1cc to Mr.N.Shanmuga Thayumanavan, Advocate, S.R.No.31082

+1cc to the Government Pleader, S.R.Nos.31185 & 31273

W.P.No.11986 of 2022

KV(CO)
RLP(25/05/2022)