



W.P.No.16566 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2022

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.16566 of 2022
and W.M.P.No.16689 of 2022

A.Mathaiyan

.. Petitioner

Vs

1.The Executive Engineer & Administrative Officer,
Tamil Nadu Housing Board,
Hosur Housing Unit,
Bagalur Road,
Hosur – 635 109.

2.The Surveyor,
Tamil Nadu Housing Board,
Hosur Housing Unit,
Bagalur Road,
Hosur – 635 109.

..Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for the records relating to the impugned notice dated 21.06.2022 issued in Letter No. B2/5389/2005 by the first respondent, quash the same and consequently forbear the respondents, their subordinates, officers, from in any manner interfering with the



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petitioner's peaceful possession and enjoyment of the shop measuring about 1743 sq ft. situated at No.24/5, Naligapetta Agaraharam Village, Hosur Taluk except by due process of law.

For Petitioner : Mr.R.Bharath Kumar

For Respondents : Mr.D.Veerasekaran

ORDER

This writ petition has been filed challenging the impugned eviction notice dated 21.06.2022. The petitioner claims that he is the absolute owner of the property in question, for which the impugned eviction notice has been issued.

2. According to the petitioner, earlier acquisition proceedings were initiated on behalf of the respondent / Board, which was challenged by the petitioner by filing writ petition being W.P.No.208 of 1993. By an order dated 17.07.2000, the acquisition proceedings was quashed by this Court. Thereafter, the land owner had sold the property in question to the writ petitioner under sale deed dated 03.02.2015. The Registration Department refused to register the said sale deed and the petitioner had to approach this Court once again by filing writ



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petition being W.P.No.20012 of 2011. By an order dated 04.10.2012, this Court directed the Registration Department to register the sale deed. According to the petitioner, the sale deed has also been registered subsequently in his name. The petitioner claims that he is in possession and enjoyment of the property in question ever since the purchase. The petitioner has also raised the ground that the impugned eviction notice has been issued without granting any opportunity of hearing to the writ petitioner.

3. Mr. D.Veerasekaran, learned counsel accepts notice on behalf of the respondents.

4. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

5. Admittedly, no opportunity of hearing has been granted to the petitioner by the respondents before issuing the impugned eviction notice calling upon the petitioner to vacate the said property. The petitioner has filed the following documents along with his report to establish his ownership. They are (a) sale deed dated 07.06.1989 registered document no. 3190/1989 in



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favour of P.Veeramani executed by Kamalammal for Survey No. 24/5, (b) order dated 17.07.2000 in W.P.No.208 of 1993, (c) sale deed dated 31.01.2008 Doc.No.1220/2008 in favour of C.V.Augestine, (d) order of W.P.No.20012 of 2011 dated 04.10.2012, (e) rectification deed dated 17.12.2012 Doc.No.16444/2012 in favour of C.V.Augestine, (f) General power of attorney dated 03.02.2015 in Doc.No.1583/2020 in favour of Manoj Kumar Mishra, (g) sale deed dated 03.02.2015 Doc No.1584/2015 in favour of A.Mathiyan and (h) receipts issued in favour of the petitioner for payment of electricity charges.

6. None of the aforementioned documents / orders have been considered by the respondents before passing the impugned eviction notice calling upon the petitioner to vacate the premises. Being a non-speaking order and an order passed in violation of principles of natural justice, the impugned order is to be necessarily quashed and the writ petition will have to be allowed.



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7. Accordingly, the impugned order dated 21.06.2022 is hereby quashed and the writ petition stands allowed. However, liberty is granted to the respondents to initiate eviction proceedings against the petitioner by following the due procedure established under law and by adhering to the principles of natural justice. Before initiating action on the petitioner, if any, the respondents shall obtain independent surveyor's report from the Hosur Taluk. No costs. Consequently, connected miscellaneous petition is closed.

06.07.2022

Index: Yes/No
ssm

To

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ABDUL QUDDHOSE, J.

(ssm)

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