



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 02.02.2022

CORAM:

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

W.P. No.23995 of 2021
and
WMP.No.25309 of 2021

Guna @ Gunammal

.. Petitioner

Versus

1. The Commissioner,
Pallavaram Municipality,
Chennai 600 044.
2. The Tahsildar,
Pallavapuram Taluk,
Chennai.
3. The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.1, Jaffer Syrang Street,
Chennai - 1.
4. A.S.Mohamed Kasim

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorari, calling for the records pertaining to the impugned notice dated 01.09.2021 vide Na.Ka.No.7586/2018/F2 u/s 180, 180A, 182 and 339 of Tamil Nadu District Municipalities Act, 1920 issued by the first respondent and quash the same.

For petitioner : Mr.R.Balaguru Swamy

For respondents

for R1 : Mr.P.Srinivas

for RR 2 & 3: Mr.R.Siddharth

for R4 : Mr.N.A.Nissar Ahmed



ORDER

(The Order of the Court was made by K.KALYANASUNDARAM, J)

The Writ Petition is heard through video conferencing.

2. Challenging the notice dated 01.09.2021 issued by the first respondent under Sections 180, 180A, 182 and 339 of the Tamil Nadu District Municipalities Act, this Writ Petition has been filed.

3. The case of the petitioner is that there are about 20 families residing in Survey No.334/1 at Jameen Pallavaram, Chennai and the land is a patta land. However, a suit in O.S.No.31 of 1999 has been filed stating that this land belongs to Wakf Board. It is the further case of the petitioner that vide an unregistered sale deed, dated 18.03.1992, he purchased a property in dispute from one S.T.C.Sakthivelu for a sale consideration of Rs.5,000/- and he has been regularly paying the property tax to the Local Body. While so, the fourth respondent herein filed W.P.No.7889 of 2018, for removal of encroachment in the public road at the main entrance of the Dharga at Pallavaram. The Writ Petition came to be disposed of on 05.04.2018, based on which, the impugned notice has been issued.

4. The learned counsel for the petitioner would state that the Pallavaram Municipal Corporation issued a show cause notice dated 26.08.2021, for which, the petitioner had submitted his reply and also produced documents to establish his right over the subject property. However, the documents were rejected only on the basis that it is an unregistered sale deed. It is also contended that without conducting proper survey, the respondent is proceeding to evict the petitioner.

5. Per contra, Mr.P.Srinivas, learned Standing Counsel appearing for the first respondent and Mr.R.Sidharth, learned Government Advocate representing respondents 2 and 3 would submit that the Deputy Surveyor of Pallavaram had conducted survey and found out that 14 persons have encroached upon the public road. He submitted a report along with sketch to the second respondent/Tahsildar. Subsequently, on the basis of the report of the Tahsildar, the first respondent issued a notice to the petitioner.

6. It is also contended that the petitioner appeared for the enquiry conducted by the first respondent on 31.08.2021 and also produced documents, which were rejected as they are unregistered documents and final order has been passed. Thereafter, the petitioner vide letter dated 14.09.2021 sought 10 days time to remove the encroachment. Contrary to the



undertaking, the present Writ Petition has been filed.

7. Heard the learned counsel appearing for the parties and perused the materials available on records.

8. Perusal of the report of the Tahsildar, Pallavaram shows that the petitioner along with 13 other persons have encroached upon the public road. It is relevant to note that the fourth respondent herein filed W.P.No.7889 of 2018 seeking a direction for removal of the encroachment and the Writ Petition was disposed of on 05.04.2018, directing the Corporation to take appropriate action. Since the petitioner herein is one of the encroachers of the public road, the impugned notice has been issued. So, we find no reason to interfere with the order passed by the first respondent. Hence, the Writ Petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

pvs

To

1. The Commissioner,
Pallavaram Municipality,
Chennai 600 044.
2. The Tahsildar,
Pallavapuram Taluk,
Chennai.
3. The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.1, Jaffer Syrang Street,
Chennai - 1.

+1cc to M/s.N.A.Nissar Ahmed, Advocate, S.R.No.6788
+1cc to Mr.P.Srinivas, Advocate, S.R.No.7485
+1cc to the Government Pleader, S.R.No.7353

W.P. No.23995 of 2021

PMK (CO)
SB(24/02/2022)