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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2023

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
and
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P.No.224 of 2023 &
W.M.P. No. 215 of 2023

V.Shankar ... Petitioner

Vs.

The Commissioner
Krishnagiri Municipality
Krishnagiri, Krishnagiri District ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the respondent from evicting and demolishing the petitioner's Godown situated in Door No.452-E, Kamala Nagar, Gandhi Road, Krishnagiri, Krishnagiri District till the disposal of the written representation made by the petitioner on 19.12.2022 for regularisation.

For Petitioner : Mr. C. Prakasam
For Respondent : Mr. E. Vijay Anand
Additional Government Pleader

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ORDER

(Order of the Court was delivered by V.M.VELUMANI, J.)

The petitioner has come out with the present Writ Petition for the praying to issue a Writ of Mandamus, forbearing the respondent from evicting and demolishing the petitioner's Godown situated in Door No.452-E, Kamala Nagar, Gandhi Road, Krishnagiri, Krishnagiri District till the disposal of the written representation made by the petitioner on 19.12.2022 for regularisation.

2. This Court directed Mr.E. Vijay Anand, learned Additional Government Pleader to take notice on behalf of the respondent.

3. By consent of both the learned counsel appearing for the petitioner as well as Mr.E.Vijay Anand, learned Additional Government Pleader, who takes notice for the respondent, this Writ Petition is taken up for final disposal at the admission stage itself.

4. Heard the learned counsel appearing for the petitioner as well

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as the learned Additional Government Pleader appearing for the respondent and perused the entire materials on record.

5. The case of the the petitioner is that he is having a godown in Plot No.38 situate in S.No.116, Krishnagiri Village, Krishnagiri District (T.S. No.8, Block No.11, Ward-C). He purchased the said property in the year 2007 and constructed the building for godown purpose. The building is assessed for property tax. While so, the respondent addressed a letter Na.Ka.No.798/2021/F1, dated 17.11.2022, to the Inspector Police, Town Police Station, Krishnagiri, seeking protection for demolition of the building as per order of this Court dated 24.03.2021 in W.P. No.7723/2021 filed by one Thiyagarajan. Learned counsel appearing for the petitioner submitted that the petitioner is not a party to the said Writ Petition. Subsequently, the respondent issued a notice dated 24.11.2022 under Section 216(3) of the Tamil Nadu District Municipalities Act, directing the petitioner to remove the unauthorised construction within 3 days, failing which the respondent will demolish the building under Section 339(2) of the Tamil Nadu District Municipalities Act. The

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learned counsel appearing for the petitioner further submitted that the petitioner has not received any notice under Section 216(2) of the Tamil Nadu District Municipalities Act before the notice dated 24.11.2022 issued under Section 216(3) of the Tamil Nadu District Municipalities Act. In such circumstances, the petitioner has sent a representation dated 19.12.2022 to the respondent. Since no order has been passed by the respondent till date, the petitioner has come out with the present Writ Petition.

6. It is the case of the petitioner that no notice was issued to the petitioner under Section 216(2) of the Tamil Nadu District Municipalities Act before issuing notice under Section 216(3) of the Tamil Nadu District Municipalities Act dated 24.11.2022. On a perusal of notice dated 24.11.2022 it is seen that in the reference it has been mentioned "notice under Section 216(2) of the Tamil Nadu District Municipalities Act", but the respondent has not mentioned any reference number, date of issue of notice issued under Section 216(2) of the Tamil Nadu District Municipalities Act.

7. Considering the above materials, the respondent is directed to

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consider the representation of the petitioner dated 19.12.2022 and pass orders on merits and in accordance with law within a period of 12 weeks from the date of receipt of a copy of this order after affording opportunity to the petitioner. Till such time, the respondent is restrained from taking any coercive steps against the petitioner.

8. With the above directions, the Writ Petition is disposed of. No costs. Consequently connected miscellaneous petition is closed.

(V.M.V.,J.) **(R.H.,J.)**

05.01.2023

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
bga

To

The Commissioner
Krishnagiri Municipality
Krishnagiri, Krishnagiri District

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V.M.VELUMANI, J.
and
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