



Writ Petition No.34410 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 20/1/2023

C O R A M

THE HONOURABLE Mr.JUSTICE N. SATHISH KUMAR

Writ Petition No.34410 of 2013
a n d
M.P.Nos.1 of 2013 and 1 and 2 of 2014

M. Baskar

...

Petitioner

Vs

1. The Secretary to the
Municipal Administration and
Water Supply
Government of Tamil Nadu
Fort St. George
Chennai 600 009.

2. The Commissioner
Sembakkam Municipality
Tambaram Taluk
Kancheepuram District
Chennai 600 073.

...

Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus to direct the second respondent to stop the illegal construction made over the land wholly owned by the petitioner situated in S.No.116/2A at Sembakkam Village, Tambaram Taluk, Kancheepuram District and by further directing the second respondent in removing the construction already made at his cost.



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For Petitioner	...	Mr.D.Sivakumar
For respondents	...	Mrs.R.Anitha Special Government Pleader for R.1
		Mr.P.Srinivas for R.2

ORDER

This writ petition has been filed to direct the second respondent to stop the illegal construction made over the land wholly owned by the petitioner situated in S.No.116/2A at Sembakkam Village, Tambaram Taluk, Kancheepuram District and further direct the second respondent to remove the construction already made at his cost.

2. The facts of the case in a nutshell, for the disposal of the writ petition are as follows:-

The petitioner has purchased the subject property by virtue of six sale deeds, dated 19/10/2005. Though the land was the subject matter of the Land Ceiling Act, same has not been disclosed to the petitioner and property has been dealt with by the erstwhile vendor. Now, according to the



petitioner, the vendor has challenged the Land Ceiling proceeding, in W.P.No.8675 of 2009 and the entire proceeding has been set aside. W.A., has been filed against the said order, which was also dismissed, on 12/1/2023, due to delay in filing Application No.8225 of 2021. Hence, it is the contention of the learned counsel that the second respondent had neither purchased the property from the petitioner nor initiated Land Acquisition proceedings. When that being the position, the respondents cannot interfere with the possession.

3. Relying on the counter filed by the second respondent, learned counsel appearing for the second respondent submitted that revenue records show that the immovable property is a Government land and in possession of the Government, having been acquired under the Urban Land Ceiling Proceedings. Possession has been taken, on 6/9/1989 and given to the Revenue Department.

4. Learned counsel appearing for the second respondent would further submit that the second respondent Municipality, taking into account the public interest and after verifying the revenue records with the revenue authorities, has taken steps to construct the fair price shop. Since the land



in question does not belong to the petitioner, question of initiating Land Acquisition proceedings does not arise. The petitioner being the purchaser, subsequent to the acquisition under ULC proceedings has no right over the property.

5. Due to the interim stay granted by this Court, Municipality is unable to proceed with the construction of the building, which is for a public purpose. Hence, prays for dismissal of the writ petition.

6. Heard Mr.D.Sivakumar, learned counsel for the petitioner, Mrs.R.Anitha, learned Special Government Pleader for the first respondent and Mr.P.Srinivas, learned counsel for the second respondent.

7. Though counter has been filed in the year 2014, much water has been flown. The very acquisition proceeding has been challenged in W.P.No.8675 of 2009, wherein, the proceeding has been set aside. Aggrieved against the same, appeal has been filed and the same was also dismissed. As on today, the title vests with the petitioner. Moreover, the Land Ceiling proceeding has reached finality in favour of the petitioner. Therefore, petitioner's right in the property cannot be divested by any means



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of law. In such a view of the matter, construction of the building by the second respondent over the property of the petitioner is illegal.

8. Accordingly, this writ petition is allowed and the second respondent is directed to stop the construction made over the land of the petitioner, situated in S.No.116/2A at Sembakkam Village, Tambaram Taluk, Kancheepuram District. If construction has commenced on the property of the petitioner, second respondent is directed to remove the same, as expeditiously as possible.

No costs. Consequently, the connected Miscellaneous Petitions are closed.

20/1/2023

Index : Yes / No

Internet: Yes

Speaking/non speaking order

Neutral Citation: Yes/No

mvs.



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mvs.

To

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