



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.11170 of 2023
and W.M.P Nos.11030, 11032 &11033 of 2023

1.Vikas Agarwal

2.Ravi Agarwal

both are rep. by their joint power agents

P.Devaraj

K.R.Ashokkumar

Petitioners

vs.

1.The District Collector,
Tiruppur District.

2.The District Revenue Officer,
Tiruppur District.

3.The Revenue Divisional Officer,
Tiruppur,
Tiruppur District.

4.The Tahsildar,
Uthukuli,
Tiruppur District.

5.The Block Development Officer,
Uthukuli,
Tiruppur District.



6.The Panchayat President,
Sengalpalayam Village,
Uthukuli Taluk,
Tiruppur District.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records pertaining to the proceedings of the 5th respondent in Na.Ka. No.541/2023/Aa2 dated 13.03.2023 and quash the same as illegal, incompetent and ultravires.

For Petitioner : Mr.M.Guruprasad

For Respondents : Mrs.S.Mythreye Chandru
Special Government Pleader
for R1 to R4

Mr.S.Ravichandran
Additional Government Pleader
for R5 and R6

ORDER

On consent given by either side, the main writ petition itself is taken up for final hearing considering the limited scope involved in the writ petition.

2.The petitioners have filed this writ petition assailing the proceedings of the 5th respondent in Na.Ka.No.541/2023/Aa2, dated 13.03.2023.

3.The case of the petitioners is that they had purchased properties in various

Survey Numbers through various Sale Deeds. The properties purchased and the



particulars of the Sale Deeds have been given in detail at Paragraph No.3 of the affidavit. The grievance of the petitioners is that the 5th respondent has proceeded to issue the impugned proceedings dated 13.03.2023 as if the petitioners have encroached upon a water body and have caused damaged to the same and the petitioners have been asked to repair it and restore it to its original position.

4.The main ground that was urged by the learned counsel for the petitioners is that the survey number that has been pointed out in the impugned proceedings dated 13.03.2023 is a patta land belonging to the petitioner. It was further submitted that the 5th respondent has straightaway issued the proceedings even without putting the petitioners on notice and calling for an explanation and hence, it was contended that the impugned proceedings of the 5th respondent is in violation of principles of natural justice.

5.The learned Special Government Pleader appearing on behalf of the respondents 1 to 4 and the learned Additional Government Pleader appearing on behalf of the 5th and 6th respondents submitted that the subject property has been categorized in the revenue records as a water body and the same was damaged by the petitioners and hence, immediate steps were taken to restore the water body by directing the petitioners to carryout the repairs. It was further submitted that immediate steps had to be taken in view of the ensuing monsoon.



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6. In the considered view of this Court, there is a bonafide dispute with regard to the ownership over the property as well as the fact as to whether the petitioners have really caused any damage to the subject property. The petitioners are also relying upon registered Sale Deeds in order to substantiate their rights over vast extent of properties. In view of the same, it would have been more appropriate for the 5th respondent to have issued a Show Cause Notice to the petitioners and called for an explanation. If this procedure had been followed, the petitioners would have submitted the reply and all the documents to substantiate their right and based on the same, the respondents could have conducted a survey and thereafter, they could have come to a definite conclusion as to whether the petitioners had encroached upon the water body and had caused damage to the same. Without undertaking this minimum procedure, the 5th respondent has straightaway directed the petitioner to restore the water body and such procedure followed by the 5th respondent is in complete violation of principles of natural justice.

7. In the light of the above discussion, it will be more appropriate to treat the proceedings of the 5th respondent in Na.Ka.No.541/2023/Aa2, dated 13.03.2023 as a Show Cause Notice. The petitioners are directed to give their reply to the 5th respondent along with all the relevant documents, within a period of two weeks



from the date of receipt of copy of this order. The 5th respondent on receipt of the same, shall get the necessary clarification from the petitioners and if required, conduct a survey of the property to exactly determine the property in question and thereafter, proceed further in accordance with law. This direction issued by this Court will sufficiently safeguard the rights of both the parties. Till a final decision is taken by the 5th respondent, the present *status quo* shall be maintained.

8.This writ petition is disposed of with the above directions. No Costs.
Consequently, connected miscellaneous petitions are closed.

11.04.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
ssr

(2/2)

To

- 1.The District Collector,
Tiruppur District.
- 2.The District Revenue Officer,
Tiruppur District.
- 3.The Revenue Divisional Officer,
Tiruppur,
Tiruppur District.



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4.The Tahsildar,
Uthukuli,
Tiruppur District.

5.The Block Development Officer,
Uthukuli,
Tiruppur District.

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