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W.P.Nos.15213, 15216, 15218, 15221 and 15219 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 10.05.2023

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

W.P.Nos.15213, 15216, 15218, 15221 and 15219 of 2023
and
WMP.Nos.14717, 14719 to 14722 of 2023

V.K.Govindaraj

... Petitioner in W.P.Nos.15213, 15216, 15218 & 15221 of 2023

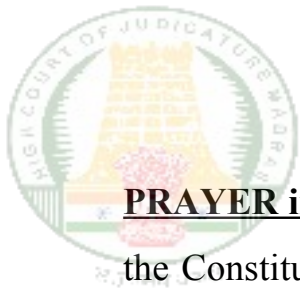
S.P.Ganesan

... Petitioner in W.P.No.15219 of 2023

Vs

1. The Secretary to Government,
Revenue Department,
Fort St George, Secretariat
Chennai - 600 009.
2. The District Collector,
Office of the District Collector,
Chennai - 600 001.
3. The Chairman and Managing Director,
Chennai Metro Rail Limited,
CMRL Depot, Ponamallee High Road,
Koyembedu, Chennai 600 107.
4. The Tahsildar,
Perambur Thaluk Office,
Chennai - 600 011.

... Respondents in all W.P.'s



PRAYER in W.P.No.15213 of 2023: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records pertaining to the impugned order passed by the 4th respondent Under Section 6 of the Tamil Nadu Land Encroachment act 1905 dated 25.04.2023 pertaining to the Petitioner's property measuring around 96 Square Meters i.e., 1033 Square feet in Block No -1, T.S.No -2, Errukancheri Village, Perambur Thaluk, Chennai District bearing Door No-12 & 13, Sathyavani Muthu Street, Erukanchery, Moolakadai, Chennai 600118 and quash the same as illegal and arbitrary.

PRAYER in W.P.No.15216 of 2023: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records pertaining to the impugned order passed by the 4th respondent Under Section 6 of the Tamil Nadu Land Encroachment act 1905 dated 25.04.2023 pertaining to the Petitioner's property measuring around 101 Square Meters i.e., 1086 Square feet in Block No -1, T.S.No -2, Errukancheri Village, Perambur Thaluk, Chennai District bearing Door No-12 & 13, Sathyavani Muthu Street, Erukanchery, Moolakadai, Chennai 600118 and quash the same as illegal and arbitrary.

PRAYER in W.P.No.15218 of 2023: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records pertaining to the impugned order passed by the 4th respondent Under Section 6 of the Tamil Nadu Land Encroachment act 1905 dated 25.04.2023 pertaining to the Petitioner's property measuring around 93.0 Square Meters i.e., 1000 Square feet in Block No -1, T.S.No -2, Errukancheri Village,



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Perambur Thaluk, Chennai District bearing Door No-12 & 13, Sathyavani Muthu Street, Erukanchery, Moolakadai, Chennai 600118 and quash the same as illegal and arbitrary.

PRAYER in W.P.No.15219 of 2023: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records pertaining to the impugned order passed by the 4th respondent Under Section 6 of the Tamil Nadu Land Encroachment act 1905 dated 25.04.2023 pertaining to the Petitioner's property measuring around 117 Square Meters i.e., 1259 Square feet in Block No -1, T.S.No -2, Errukancheri Village, Perambur Thaluk, Chennai District bearing New Door No-1B, Old No-15/3, Sathyavani Muthu Street, Erukanchery, Moolakadai, Chennai 600118 and quash the same as illegal and arbitrary.

PRAYER in W.P.No.15221 of 2023: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records pertaining to the impugned order passed by the 4th respondent Under Section 6 of the Tamil Nadu Land Encroachment act 1905 dated 25.04.2023 pertaining to the Petitioner's property measuring around 210 Square Meters i.e., 2259 Square feet in Block No -1, T.S.No -2, Errukancheri Village, Perambur Thaluk, Chennai District bearing Door No-12 & 13, Sathyavani Muthu Street, Erukanchery, Moolakadai, Chennai 600118 and quash the same as illegal and arbitrary.

In all W.P.'s

For Petitioner : Mr.Adinarayana Rao

For Respondents : Mr.P.Muthu Kumar (for R1, R2 & R4)
State Government Pleader



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COMMON ORDER

(Order of the Court was made by Dr.ANITA SUMANTH,J.)

Learned counsel for the petitioner states that the petitioner does not wish to press the writ petitions as against R3 and made an endorsement to that effect in the bundle. Hence, these writ petitions are dismissed as against R3.

2. Mr.Muthukumar, learned counsel accepts notice for R1, R2 and R4 and is armed with instructions to enable final disposal of these matters at this juncture, even at the stage of admission.

3. This Court has had an occasion to consider the similar relief in the case of *S.Venkatachalapathy Vs. The Secretary to Government, Revenue Department, Chennai and 3 others* [W.P.No.14671 of 2023 dated 04.05.2023]. Both learned counsel would accede to the position that the facts and circumstances involved in the present writ petitions are identical to that, as considered by the Division Bench in that order. The order reads as follows:

"Today, by a separate order, we have disposed of a batch of Writ Petitions in W.P.Nos.14516 of 2023 etc. The relevant portion of the said order reads as under:~

4. A reading of the above



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impugned notices indicates that they are only notices issued under the said Act. However, in it, it is concluded that the petitioners have encroached over the land. In case the impugned notices are concluded as orders passed, the petitioners have an alternate remedy before the second respondent ? District Collector under Section 10 of the said Act.

5. We are of the view that though the impugned proceedings were titled as notice, they are in the nature of order under Section 6 of the said Act. There is a pre-determination that the petitioners are encroachers. The impugned proceedings cannot be construed as having passed under Section 6 of the said Act as the petitioners have not been given an opportunity to reply or give their representation and thus in violation of principles of natural justice.

6. Therefore, the impugned proceedings shall be treated as notices issued under Section 7 of the said Act to the respective petitioners. The petitioners are therefore directed to give their reply to the said notices within a period of fifteen days from the date of receipt of a copy of this order. The respondents shall thereafter pass order after following principles of natural justice.

7. In case any adverse orders are passed, the petitioners can always file appeal before the second respondent ? District Collector under Section 10 of the Act. If such appeals are filed, they shall be disposed of by the second respondent ? District Collector.



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Pending such exercise, all coercive steps shall be kept in abeyance.

8. These writ petitions are disposed of. There shall be no order as to costs.

2. As the present Writ Petition also arises out of the similar proceedings initiated against the petitioner, we dispose of the present Writ Petition in terms of the order in W.P.Nos.14516 of 2023 etc. batch. There shall be no order as to costs."

4. In light of the identity of facts and circumstances, the same order is taken to be passed in the present writ petitions as well.

5. These Writ Petitions stands disposed in the aforesaid terms. No costs. Connected miscellaneous petitions stand closed.

(A.S.M.,J) (M.N.K.,J)
10.05.2023

Index : Yes /No
Speaking / Non-speaking
Neutral Citation:Yes/No
gya/impl



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To

1. The Secretary to Government,
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3. The Chairman and Managing Director,
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Dr.ANITA SUMANTH,J
AND
M.NIRMAL KUMAR,J.

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