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W.P.No.25946 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.25946 of 2014

and

M.P.No.1 of 2014

Pattali Makkal Katchi,
Rep.,by it's President
G.K.Mani

... Petitioner

Vs.

1.The Addl.Chief Secretary,
Commissioner of Revenue Administration,
Revenue Department and Mitigation Department,
Ezhilagam, Chepauk,
Chennai – 600 005.

2.Mayilvel

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records relating to the proceedings in SR.No.172/PVT/VPM/2013 dated 19.08.2013 and its consequential notice in SR.No.144 to 164, 167, 172 to 183, 494, 500, 502, 503 and 504/PVT/2013 dated 27.08.2014 of the 1st respondent herein.



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For petitioner	: M/s.K.Balu
For R1	: Mr.T.Arunkumar, Additional Government Pleader.
For R2	: No appearance

ORDER

The writ on hand has been instituted to quash the proceedings dated 19.08.2013 and the consequential notice issued by the 1st respondent in proceedings dated 27.08.2014.

2. The Notice impugned dated 27.08.2014 reveals that the action was initiated under the provisions of the Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992 in respect of the agitation held on 25.04.2013.

3. Earlier in proceedings dated 19.08.2013, in form-V, notice was issued intimating the date of hearing to the petitioner. The petitioner is a political party represented by its President. The First Information Report dated 05.05.2013 relied on by the petitioner reveals that there is no reference



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regarding the participation of the Members or Office Bearers of Pattali Makkal Katchi. In the absence of any such reference, initiation of proceedings under the Act is improper.

4. This Court is of the considered opinion that the First Information Report cannot be the sole basis for forming a final opinion. Issues are to be decided by conducting an enquiry. Whether there was a participation by the political party members and the Officer bearers are to be ascertained through documents and evidences available. Contrarily, merely based on the FIR, High Court cannot quash the entire proceedings since it is an information received by the Police Authorities based on which the case was registered. Mere registration of a case cannot be a ground to grant exoneration from liability.

5. Issues regarding the application of the Act as against the very same political party i.e. Pattali Makkal Katchi, this Court passed order in W.P.No.29039 of 2013 etc.



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6. The learned Additional Government Pleader appearing on behalf of the respondents, relying on the Counter, has stated that the writ petition is premature. The relevant portions of the Counter reads as under:

“the arguments put forth by the petitioner are that there is no cause of action for liability under Sec.9 and 10 of the Act as no report of conviction for the offences punishable under Sec.3,4 and 5 of the Act was recorded in the F.I.Rs and that the liability for compensation under Sec.9 and claim under Sec.10 of the Act would apply only to the damages to property covered under the provisions of the Act. These arguments are untenable and not supported by the facts. The 2nd respondent filed his application claiming compensation to the 1st respondent with the details of the incidents leading to damages to shop because of vandalism by the part of the Writ petitioner's Partymen which is under proper enquiry before the 1st respondent under the Act and Rules. The Writ petitioner without availing this opportunity made available to him to refute the



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allegations of the 2nd respondent filed this writ petition which deserves to be dismissed.”

7. No representation against a notice is entertainable unless such notice has been issued by an incompetent Authority having no jurisdiction or tainted with the allegations of mala fides. A person receiving the notice is expected to participate in the process of an inquiry in order to establish his case or to defend the allegations. Contrarily, the High Court cannot conduct the roving enquiry in respect of such nature of allegations under the provisions of the Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992. The power of Judicial review of the High Court under Article 226 of the Constitution of India is to ensure the processes through which a decision has been taken by the competent Authority in consonance with statutes and rules in force but not in decisions itself.

8. In the presence writ petition, the very notice issued by the Additional Chief Secretary/Commissioner of Revenue Administration under the Act is under challenge. In the event of considering the merits, the public interest would be prejudiced since the allegations as well as the notice are



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relating to the damage caused to the public/private properties. That being the factum, the petitioner has to participate in the process of enquiry for the purpose of establishing their innocence or otherwise.

9. Accordingly, the writ petitioner is granted liberty to do so. Consequently, the writ petition stands **dismissed**. No costs. Consequently, connected miscellaneous petition is closed.

08.09.2023

Index:Yes
Speaking order
Neutral Citation:Yes
veda/sha

To

The Addl.Chief Secretary,
Commissioner of Revenue Administration,
Revenue Department and Mitigation Department,
Ezhilagam, Chepauk,
Chennai – 600 005.



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S.M.SUBRAMANIAM, J.

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