



Writ Petition No.20732 of 2023 batch etc.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :13.09.2023

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

Writ Petition Nos.20732, 20736, 20737, 20738 and 20741 of 2023
WMP.Nos.20105, 20736, 20737, 20738, 20741, 20110, 20112, 20113 and
20741 of 2023

A.L.Logesh	...	Petitioner in W.P.No.20732 of 2023
A.Raja	...	Petitioner in W.P.No.20736 of 2023
D.Manogaran	...	Petitioner in W.P.No.20737 of 2023
P.Nedumaran	...	Petitioner in W.P.No.20738 of 2023
E.Thiyagarajan	...	Petitioner in W.P.No.20741 of 2023

Vs

1.The Commissioner,
Arcot Municipality,
Arcot Town and Taluk,
Ranipet District.

2.The Tahsildar,
Arcot Town and Taluk,
Ranipet District.

3.The Tamil Nadu Waqf Board,
Rep by its Chief Executive Officer,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai – 600 001.



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4.Hazarath Syed Shah Dada Peer Dargah Waqf,
Rep by its Muthawalli,
S.Syed Meer,
Arcot Town and Taluk,
Ranipet.

... Respondents in all W.Ps

COMMON PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Mandamus forbearing the respondents 1 and 2 from or anybody on behalf them from initiating any coercive action of demolishing or removing the property without any due process of law bearing T.S.No.38, New.S.No.133, Ward No.A, situated at shop Nos.1, 3, 4, 5 and 2 respectively, Arcot Town and Taluk, Ranipet District, without any notice and following due process of law.

For Petitioners
in all W.Ps : M.M.I.Khaleel

For Respondents : Mr.S.Silambannan
in all W.Ps Additional Advocate General -II
Assisted by Mrs.S.Anitha
Special Government Pleader for R1 and R2
Mr.S.Haja Mohideen Gisthi
Senior Standing Counsel (Waqf Board)
for R3
M/s.G.Anandaraj
and M.Abina Monisha for R4



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COMMON ORDER

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These writ petitions are filed by the petitioners seeking issuance of a writ of Mandamus forbearing the respondents 1 and 2 from initiating any coercive action of demolishing or removing the property bearing T.S.No.38, New.S.No.133, Ward No.A, situated at shop Nos.1, 3, 4, 5 and 2 respectively, Arcot Town and Taluk, Ranipet District, without following due process of law.

2. It is the case of the petitioners that the property in T.S.No.38 equivalent to New.S.No.133 measuring 00.3.25 hectare belongs to the 4th respondent/Waqf in the proforma maintained by the Waqf Board. The 4th respondent/Waqf constructed shops in the above mentioned property and let out the same to the petitioners. The 1st respondent Municipality while demolishing the shops situated in T.S.No.37 attempted to demolish the shop situated in T.S.No.38 also.

3. It is the specific case of the petitioners that the 1st respondent/Municipality is not entitled to disturb their possession and



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demolish the shops without following any process of law and therefore the petitioners have come up with these writ petitions.

4. The 1st respondent filed a counter, wherein, the right of the 4th respondent/Waqf over the above mentioned land is specifically disputed. The 1st respondent has also taken a stand that the property in T.S.No.38 is equivalent to New Survey No.133 is the property of the 1st respondent/Municipality. However, it is specifically averred in the counter affidavit of 1st respondent that the petitioners without any permission from the 1st respondent constructed the building in the above mentioned place and when the same was questioned by the 1st respondent/Municipality, they have come up with these writ petitions. The relevant averment found in the counter affidavit of 1st respondent reads as follows:

The 4th respondent instigated the petitioner to file a case against the 1st respondent in respect of the property which is not owned by the 4th respondent. The petitioner without getting any permission from the 1st respondent had constructed the building with flammable roofs and doing business. The petitioner constructed the building without getting appropriate permission from the 1st respondent and



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when the same is questioned by the 1st respondent, the petitioner and the 4th respondent colluded with each other and filed the present writ petition with false allegations.

5. In view of the specific stand taken by the 1st respondent that the petitioners had put up construction without any permission from the 1st respondent, the possession of the petitioners in respect of the above mentioned shops is admitted by the 1st respondent. In such circumstances, the 1st respondent shall not disturb the possession of the petitioners without following due process of law.

6. It is settled law, even original owner of the property is not entitled to take law into his hand and disturb the possession of any person including that of a trespasser. Ref: Rame Gowda Vs. M.Varadapa 2004(1) SCC 769.

7. In the case on hand, the 1st respondent/Municipality has taken a specific stand that the petitioners constructed the building with flammable roofs without getting any permission from the 1st respondent. In



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such circumstances, the petitioners' occupation of the shops in the above mentioned place gets admitted. If the 1st respondent has got any right over the land, it is for them to take appropriate proceedings following due process of law and take possession of the property.

8. In such circumstances, this Court is inclined to entertain the limited prayer made by the petitioners in these writ petitions and 1st respondent is directed not to take any action for demolition of the shops of the petitioners bearing shop Nos.1 to 5 situated in T.S.No.38 equivalent to New Survey No.133, Ward No.A, situated at shop Nos.1, 3, 4, 5 and 2 respectively, Arcot Town and Taluk, Ranipet District, without following due process of law.

9. With these observations, the writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

13.09.2023

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
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S.SOUNTHAR, J.

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