



WP No.23538 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.08.2023

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKEVALU

WP No.23538 of 2023

Suriyakala

: Petitioner

versus

- 1.The Commissioner,
Coimbatore Municipal Corporation,
Coimbatore District
- 2.Assistant Executive Engineer (Planning)
West Zone, Coimbatore Municipal Corporation,
Coimbatore District
- 3.Kalaimmal
- 4.Samy Gounder
- 5.Rangasamy
- 6.Ramasamy
- 7.Sundaram
- 8.Selvaraj
- 9.Natarajan
- 10.Shanmugam
- 11.Jeyaram

: Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the entire records relating to the order passed by the second respondent dated 08.05.2023 and quash the same and consequentially directing the respondents 1 and 2 to forbear from interfering with the petitioner's peaceful possession and enjoyment of the 1470 sq.ft. property in ka.Sa.No.31/2C Vadavallai Village, in the approved layout New Thillai Nagar, Coimbatore Taluk, Coimbatore District.



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For the Petitioner : Mr.J.Titus Enock
For the Respondents : Mr.K.M.D.Muhilan,
Additional Government Pleader,
for respondents 1 and 2

ORDER

(Made by the Hon'ble Chief Justice)

We have heard Mr.J.Titus Enock, learned counsel for the petitioner and Mr.K.M.D.Muhilan, Additional Government Pleader, for respondents 1 and 2.

2. The learned counsel for the petitioner submits that the impugned order is issued directing the petitioner to remove the encroachment without giving opportunity to the petitioner. In the original plan, the land purchased by the petitioner was shown as a play ground. However, subsequently, the same was changed and another land is gifted as a play ground. In the another land gifted as play ground, instruments of games for children are also placed.

3. Learned counsel for respondents 1 and 2 does not dispute that prior to the impugned order being issued, no show-cause notice was issued to the petitioner. The petitioner was not given opportunity to put-forth her stand.

4. In light of that, we pass the following order:



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“(i) The impugned order shall be construed as a show-cause notice;

(ii) The petitioner shall file reply to the same within fifteen days from today and raise all available defences, so also produce the documents relied by the petitioner.

(iii) Respondents 1 and 2 shall consider the reply filed by the petitioner and thereafter take a decision afresh in accordance with law;

(iv) In case respondents 1 and 2 want to issue a fresh notice under any other provisions of law, respondents are at liberty to do so.”

There will be no order as to costs. Consequently, WMP Nos.23052 and 23053 of 2023 are closed.

(S.V.G., C.J.)

(P.D.A., J.)

11.08.2023

Index : Yes/No
Neutral Citation : Yes/No
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To

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Coimbatore District

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