IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2023

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.27 of 2022
and
W.P.No.13815 of 2022

W.A.No.27 of 2022:

1.The Principal Secretary/Commissioner of Land Reforms,
Office of the Director of Urban Land Ceiling and Urban Land Tax,
Chepauk, Chennai-600 005.

2.The Assistant Commissioner,
(Urban Land Tax), Alandur,
Chennai-600 088. .. Appellants

Vs

M/s.Padma Mines and Mineral Corporation,
rep. by its Partner S.Srinivasan,
No.2/493, Mambakkam Road,
Medavakkam, Chennai-601 302. .. Respondent

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 9.7.2019 made in W.P.No.10386 of 2009.

W.P.No.13815 of 2022:

M/s.Padma Mines and Minerals Corporation,
rep. by its Partner S.Srinivasan,
No.2/493, Mambakkam Road,
Medavakkam,
Chennai-601 302. .. Petitioner

Vs

State,
rep. by The Revenue Inspector,
Medavakkam,
Tambaram Taluk,
Chengalpattu District. .. Respondent

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari calling for the records with regard to the respondent's notice dated 17.05.2022 issued under the Tamil Nadu Act 3 of 1905 and quash the same as illegal and ultra vires.

For the Appellants in W.A.No.27/2022 and For the Respondent in W.P.No.13815/2022	:	Mr.P.Kumaresan Addl. Advocate General assisted by Mr.S.Prabhakaran Government Advocate

For the Respondent in W.A.No.27/2022 and For the Petitioner in W.P.No.13815/2022	:	Mr.S.Ayyadurai Senior Counsel for Mr.M.Velmurugan

COMMON JUDGMENT

(Delivered by the Hon'ble Acting Chief Justice)

W.A.No.27 of 2022 is directed against the order dated 9.7.2019 passed in W.P.No.10386 of 2009.

2. W.P.No.13815 of 2022 has been filed by the writ petitioner/respondent in W.A.No.27 of 2022 to quash the impugned notice dated 17.5.2022 issued by the respondent therein.

3. Learned Additional Advocate General appearing for the appellants argued that, firstly, the matter was not properly represented on behalf of the appellants before the learned Single Judge. Secondly, the writ petition filed by the writ petitioner is abuse of process of law inasmuch as the possession of the excess land was

handed over to the revenue authorities in the year 1996 itself after following all the procedures laid down in the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978. Therefore, the order of the learned Single Judge remanding the matter to the appellants to proceed in accordance with law after following the procedure contemplated under the Act of 1978 and the principles of natural justice is erroneous.

4. In reply, Mr.S.Ayyadurai, learned senior counsel appearing for the respondent/writ petitioner submitted that when the Act of 1978 was repealed on 16.6.1999 by Repeal Act 20 of 1999, the impugned order dated 5.2.1999 passed by the Principal Secretary/ Commissioner of Land Reforms rejecting the exemption petition on the ground that possession of the land was handed over on 8.10.1996, without even hearing the writ petitioner, is in violation of the basic principles of natural justice. Therefore, the learned Single Judge, considering the fact that the impugned order dated 5.2.2009 was passed without following the principles of natural justice, has rightly remanded the matter to the appellants. Hence, the order of the learned Single Judge

does not call for any interference and the writ appeal is liable to be dismissed.

5. Learned senior counsel appearing on behalf of the writ petitioner further submitted that inasmuch as the initiation of proceedings is itself in gross violation of the principles of natural justice, the consequential notice issued under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 by the Revenue Inspector, Medavakkam, which is under challenge in W.P.No.13815 of 2022, is also liable to be quashed.

6. We have considered the rival submissions and also perused the materials available on record.

7. As could be seen from the impugned order, while disposing of the writ petition, the learned Single Judge heard the submissions of learned counsel for the respondent/writ petitioner and learned Additional Government Pleader for the appellants herein. Since both learned counsel for the respondent/writ petitioner and learned

Additional Government Pleader agreed that the impugned order dated 05.02.2009 was passed without giving any opportunity to the respondent/writ petitioner, the learned Single Judge remanded the matter to the appellants to proceed further in accordance with law. In paragraph 3, the learned Single Judge observed as under:

> *"3. Both the counsel agreed that the impugned order was passed without giving any opportunity to the petitioner. In view of the above violation of the principles of natural justice, I am inclined to set aside the impugned order passed by the Officer, accordingly impugned order is set aside and liberty is granted to the respondent to proceed the matter in accordance with law after following the procedure contemplated under the Act and principles of natural justice. Writ petition is allowed in the above terms. No costs."*

8. Since the learned Single Judge clearly mentioned that both the counsel agreed that the impugned order was passed without giving any opportunity to the respondent/writ petitioner, in our considered view, the learned Single Judge was right in remanding the matter to the appellants to proceed with the matter in accordance with law after following the procedure contemplated under the Act and the principles

of natural justice. We find no error in it. Therefore, the appeal fails and the same is dismissed.

9. In view of the dismissal of the appeal, the consequential notice dated 17.5.2022 issued by the Revenue Inspector, Medavakkam, which is impugned in W.P.No.13815 of 2022, deserves to be quashed. Accordingly, the impugned notice dated 17.5.2022 issued by the respondent Revenue Inspector, Medavakkam, Tambaram Taluk, Chengalpattu District is set aside and the writ petition is allowed.

There will be no order as to costs. Consequently, C.M.P.No.358 of 2022 and W.M.P.No.13103 of 2022 are closed.

(T.R., ACJ.)   (D.B.C., J.)
30.01.2023

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

The Revenue Inspector,
Medavakkam,
Tambaram Taluk,
Chengalpattu District.

T.RAJA, ACJ.
AND
D.BHARATHA CHAKRAVARTHY, J.

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W.A.No.27 of 2022
and W.P.No.13815 of 2022

30.01.2023