



W.P.No.24325 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2023
CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU
AND
THE HONOURABLE Mrs.JUSTICE N.MALA

W.P.No.24325 of 2023
and
W.M.P.No.23768 of 2023

Manjuladevi

.... Petitioner

vs

1. The District Collector,
Tiruppur District.

2. The Executive Officer,
Mulanoor Town Panchayat,
Tiruppur District.

3. Seetha

.... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records pertaining to impugned order in Na.ka.No.177 of 2023 dated 09.08.2023 issued by the 2nd respondent and quash the same .

For Petitioner : M/s. Karan and Uday

For Respondents : Mr.P.Gurunathan,
Additional Government Pleader for R1
Ms.S.Anitha,
Special Government Pleader for R2



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ORDER

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(Order of the Court was made by J.Nisha Banu,J.)

This Writ Petition has been filed challenging the order dated 09.08.2023 passed by the 2nd respondent, by which, the petitioner was directed to demolish the construction made in Survey No.586 situated at Moolanur Village, Dharapuram, Tiruppur District on or before 18.08.2023, failing which, action will be taken to remove the same through the Town Panchayat before 3.00 p.m. on 21.08.2023.

2. i) The case of the petitioner is that the petitioner is in possession of the subject property by way of partition among the petitioner, her sister and her mother. They have shared 1.72 cents equally i.e., 0.57 cents each through a partition deed dated 31.08.2017, registered as document No.1047 of 2017, before the Sub-Registrar office, Moolanur, Tiruppur District. From the date of purchase, the petitioner and her family members have been in absolute possession of the property and in revenue records, patta stands in the name of the petitioner's father in patta no.1214.

ii) According to the petitioner, there exists construction in the above said property for the past 65 years. The petitioner and her sister had let out the above said premises for rent to various others for running a poultry farm and other retail shops. That being the position, in the year 2015, the 3rd



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respondent filed a partition suit as against the petitioner and her family members claiming partition with respect to another survey No.507A and the said suit was set exparte as against the petitioner.

iii) Due to family dispute and previous enmity upon the petitioner, the 3rd respondent made a representation to the 2nd respondent to take appropriate action as against the petitioner alleging illegal construction in the said Survey No.586 and also filed W.P.No.3036 of 2018 before this Court to take appropriate action on her representation. The said writ petition was disposed of on 09.03.2023, directing the respondents to inspect the property in question and if there is any unauthorised construction found during inspection, the respondents are directed to take appropriate action within four weeks, after issuing notice to the petitioner and respondents 2 to 4 therein. Thereafter, the 2nd respondent passed the order dated 14.06.2023 directing the petitioner to demolish the construction. The said order was passed without conducting inspection, without giving notice and also without hearing the petitioner and the concerned parties. Therefore, the same was challenged by the petitioner by filing W.P.No.19276 of 2023 before this Court and this Court vide order dated 11.07.2023 directed the respondents to pass fresh orders by strictly complying with the directions issued by this Court vide order



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dated 09.03.2023 in W.P.No.3036 of 2018 within two weeks. Again, the 2nd respondent, without complying with the direction of the order passed by this Court on 09.03.2023, had passed the impugned order dated 09.08.2023. Hence, the present writ petition with the aforesaid relief.

3. Heard the learned counsel appearing on either side and perused the materials available on record.

4. It is pertinent to point out that this is the second round of litigation. This Court, vide order dated 18.07.2023 in W.P.No.19276 of 2023, had directed the respondents to pass fresh orders by strictly complying with the directions issued by this Court vide order dated 09.03.2023 made in earlier writ petition filed in W.P.No.3036 of 2018 within a period of two weeks from the date of receipt of copy of the said order. It has been specifically observed in the order dated 18.07.2023 passed by this Court that there is no whisper of any inspection having been conducted and there is no reference to any notice to the petitioner as well as the third respondent before passing the order as directed by this Court vide order dated 09.03.2023 and therefore, set aside the impugned order therein. However, in the present impugned order also, though it is mentioned that on inspection it was found that there is unauthorised construction made and directed the petitioner to demolish the construction,



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there is no mention about any notice sent to the petitioner and no opportunity of hearing to the petitioner was given and the 2nd respondent has mechanically passed the impugned proceedings.

5. In view of the above, we are of the view that the order dated 09.03.2023 has not been complied with. Therefore, the impugned order has to be set aside. Accordingly, the impugned order dated 09.08.2023 is hereby set aside. The 2nd respondent is directed to strictly comply with the order passed by this Court dated 09.03.2023 in W.P.No.3036 of 2018 within a period of four weeks from the date of receipt of a copy of this order. Accordingly, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

(J.N.B., J.) (N.M., J.)
17.08.2023

jer/vsi

Index : Yes / No

Internet : Yes / No

To

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Tiruppur District.

2. The Executive Officer,
Mulanoor Town Panchayat,
Tiruppur District.



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and
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