



C.M.P.No.16885 of 2022 in W.A.SR No.106915 of 2022

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WEB C THE HON'BLE ACTING CHIEF JUSTICE

and

D.BHARATHA CHAKRAVARTHY, J.

(Order of the Court was made by The Hon'ble Acting Chief Justice)

Murungapakkam Kaviarasu Bharathiyar Nagar Manai Vangiyor Nalvazhvu Sangam represented by its President Mr.Ramalingam, has filed this civil miscellaneous petition seeking leave to file an appeal against the impugned order dated 26.08.2022 passed by the learned single Judge in Writ Petition No.32872 of 2012.

2. Mr.Srinath Sridevan, learned Senior Counsel appearing for the petitioner submitted that the petitioner Association was duly registered under the name - Murungapakkam Kaviarasu Bharathiyar Nagar Manai Vangiyor Nalvazhvu Sangam on 11.02.2009 by the Registrar of Societies. The members of the petitioner Association, 133 in number, have purchased the plots situated in Murungapakkam Village comprised in R.S.No.144/2, T.S.No.22/2 and T.S.No.22/1, Ward-N, Block-12 from 25.08.1989 to 02.04.1993 for a valid sale consideration and the said sale was also duly registered with the Sub Registrar, Pondicherry. There was no impediment



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for registration of the same at the relevant point of time. Before the members of the petitioner Association purchased the plots, they had also verified the encumbrance certificate and the documents did not reflect any adverse entries. But the Pondicherry Housing Board, the third respondent herein initiated action in the year 1993 to take possession of the entire extent of 2.76.00 hectares of land belonging to the trust including the extent of 0.02.40 hectares that were sold to 133 members, citing a reason that the entire extent was acquired under the Land Acquisition Act, 1894. Only then, the members of the petitioner Association came to know that the Government of Pondicherry had issued the G.O.Ms.No.129, Housing Department dated 30.12.1987 under Section 4(1) of the Land Acquisition Act for acquisition of the land measuring 2.78.40 hectares in R.S.No.144/2, T.S.No.22/2, Ward-N, Block-12 of Murungapakkam Village and Award No.6 of 1993 dated 21.05.1993 was also passed in pursuance of the said notification.

3. The learned Senior Counsel further contended that when the writ petitions and civil suits filed by the members of the petitioner Association came to be disposed of by a common order dated 27.08.1999 directing the



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respondents therein to consider their case on merits and decide the feasibility of allotting plots to them, they are all bona fide purchasers. But before the learned single Judge, it has been pleaded that the members of the petitioner Association are all encroachers, which is factually incorrect. Secondly, the learned single Judge has also come to the conclusion that no notice is required to be given to the members of the petitioner Association for the enhancement in the cost of the land from Rs.750/- to Rs.1500/- per square feet. Since huge financial prejudice has been caused to the members of the petitioner Association, they are entitled to be heard, therefore, leave may be granted.

4. We have also heard Mr.V.Raghavachari, learned Senior Counsel appearing for the first respondent, Mr.V.Vasanthakumar, learned Additional Government Pleader (Pondy) for the second respondent and Mr.T.P.Manoharan, learned Senior Counsel appearing for the third respondent.

5. Finding merit in the grievance that the members of the petitioner Association were not heard before passing the impugned order, this civil



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miscellaneous petition stands allowed granting leave as prayed for.

WEB COPY List the appeal for admission on 30.01.2023.

(T.R.,A.C.J.) (D.B.C.,J.)
23.01.2023

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