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**WP (MD) Nos. 3382, 4909
and 4910 of 2023**

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 19.07.2023

CORAM:

THE HONOURABLE MR. JUSTICE **B. PUGALENDHI**

**WP (MD) Nos. 3382, 4909 and 4910 of 2023
and
WMP (MD) Nos. 4592, 4594 and 4595 of 2023**

1. Sushma Banu

2. Farjana Mubeena

... Petitioners
in WP (MD) No. 3382 of 2023

1. Naseer Ahamed

... Petitioner
in WP (MD) No. 4909 of 2023

2. Kadar Zubidha

... Petitioner
in WP (MD) No. 4910 of 2023

Vs

1. The District Collector,
Dindigul District,
Dindigul.

2. The Commissioner,
Dindigul City Municipal Corporation,
Dindigul District.

3. The Joint Sub Registrar No. II,
Dindigul District,
Dindigul.

... Respondents in all WPs



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PRAYER in WP(MD)No.3382 of 2023: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the 3rd respondent to register the petitioner's sale deed comprised in Survey Nos.789/1B, 789/2A1, 789/3A1 total extent of 10,500 square feet at Sithlagundu village, Didigul West Taluk, Dindigul District without insisting upon no objection certificate from 2nd respondent pursuant to the paper publication dated 22.06.2022 proceedings No.Na.Ka.No.1771/2004/F1.

COMMON PRAYER in WP(MD)Nos.4909 and 4910 of 2023: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorarified mandamus calling for the records pertaining to the impugned order issued by the 2nd respondent vide his proceedings in Na.Ka.No. 6783/2022/F2, dated 22.08.2022 and quash the same as illegal and consequently directing the 3rd respondent to register documents in respect of the petitioner's property total extent of 106 cents (90+16) comprised in S.Nos. 789/12, 789/13, 789/1B1, 786/2B1 and 35 cents comprised in S.No.788/2A at Sithalagundu Village, Dindigul West Taluk, Dindigul District without insisting upon No Objection Certificate from 2nd respondent.



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For Petitioners : Mr.A.Shajahan.A
For Respondent : Mr.G.V.Vairam Santhosh
Nos.1 and 3 Additional Government Pleader
For Respondent : Mr.M.Thirunavukkarasu,
No.2 Standing Counsel

COMMON ORDER

The writ petition in WP(MD)No.3382 of 2023 is filed for a writ of mandamus directing the 3rd respondent / the Joint Sub Registrar No.II, Dindigul to register the sale deed comprised in S.Nos.789/1B, 789/2A1, 789/3A1 to an extent of 10,500 sqft at Sithalagundu Villllage, Dindigul District.

2.The writ petitions in WP(MD)Nos.4909 and 4910 of 2023 are filed challenging the order of the Commissioner of Dindigul Corporation dated 22.08.2022 in and by which the request of the petitioners for grant of no objection certificate for registering the property comprised in S.Nos.786,788 and 789 of Sithalagundu Villllage, Dindigul District.



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3.The learned Counsel for the petitioners submits that the petitioners are the land owners of the properties in S.No.789/1B, 789/2A1, 789/3A1 (patta No.5999), 789/12, 789/13(patta No.6909), 786/1B1, 786/2B1 (patta No.7116 and 788/2A1 (patta No.6907) respectively situated at Sithalakudndu Village, Dindigul District. The petitioners have submitted their documents for registration before the Joint Sub Registrar No.II, Dindigul. However, the Joint Sub Registrar by referring the objections received from the Commissioner of Dindigul Corporation has refused to register the documents and therefore, these writ petitions are filed with the above prayers.

4.The learned Counsel appearing for the Dindigul Corporation by referring the topograph sketch filed along with the counter submits that the Dindigul Corporation has constructed a sewage treatment plant in S.No.585 of Pallapatti Village and according to the Pollution Control Board, 100 metres around the sewage treatment plant should be a no-development zone enabling to develop green belt.



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The Dindigul Corporation has sent communication to the DRO to obtain permission for acquiring the subject lands and therefore, there cannot any registration in respect of the subject lands.

5.This Court considered the rival submissions and perused the materials placed on record.

6.The petitioners are the owners of the properties and they want to sell their properties. However, because of the objections raised by the Dindigul Corporation, the Joint Sub Registrar refused to register the documents presented by the petitioners. The respondent Corporation claims that Didingul Corporation has a sewage treatment plant at Pallapatti Village and to provide under ground drainage connection to 26 wards, the concerned lands are required to be acquired. Since the acquisition process is pending for the adjacent lands, the Commissioner has raised his objections for registering the subject lands.

7.The respondent Corporation claims that the



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acquisition process is pending and no orders have been passed so far for acquisition. It is trite law that right to property is a human right in a welfare state and a constitutional right under Article 300 A of the Constitution of India. No person can be deprived of the property by any one including the State except with the procedure established by the law. Thus unless and until the lands are acquired by the Government, the petitioner cannot be prevented from selling their own properties.

8. In view of the above discussion. These writ petitions are allowed. The impugned orders are set aside. The Joint Sub Registrar No. II, Dindigul/ 3rd respondent is directed to register the petitioners' properties in question. No costs. Consequently Connected miscellaneous petitions are closed.

19.07.2023

NCC: Yes/ No
Internet : Yes / No

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To

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