



W.P.No.3137 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

W.P.No.3137 of 2021

and

W.M.P.No.3565 of 2021

in W.P.No.3137 of 2021

R.Prabhu

.. Petitioner

Vs.

1.The District Collector
Coimbatore District
Coimbatore.

2.The Executive Engineer
Narashimma Naickenpalayam
Town Panchayat
Coimbatore - 641 031.

3.The Tahsildar
Coimbatore North Taluk
Coimbatore District.

... Respondents

Page Nos.1/8



W.P.No.3137 of 2021

WEB COPY

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order dated 18.01.2021 made in Na.Ka.No.148/2019 passed by the second respondent, quash the same and consequently forbear the second respondent from interfering with the petitioner's right to property measuring 702 sq.ft., comprised in Old S.F.No.376/3, New S.No.376-2-O, Narasimmanaickenpalayam Village, Coimbatore North Taluk and pass such further or other suitable orders as this Court deems fit and proper in the circumstances of the case.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.P.Balathandayutham
Special Government Pleader

ORDER

[Order of the Court was made by K.GOVINDARAJAN THILAKAVADI.J.,]

The petitioner has filed this writ petition praying for issuance of certiorarified mandamus to call for the records of the impugned notice dated 18.01.2021 made in Na.Ka.No.148/2019 passed by the second respondent and to quash the same.

Page Nos.2/8



W.P.No.3137 of 2021

WEB COPY

2. According to the writ petitioner, this is the second writ petition filed by him *inter alia* an alleged encroachment to an extent of 702 sq.ft. in Old S.F.No.376/3, New S.No.376-2-O in Narasimmanaickenpalayam Village, Coimbatore North Taluk. The writ petitioner would contend that he had approached this Court on an earlier occasion in W.P.No.35892 of 2019, wherein the challenge was to the impugned notice dated 17.10.2019 directing the petitioner to remove the non-existing superstructure in the property in question. But according to the petitioner, no such construction was put up by him in the said property.

3. On 10.02.2020, this Court has passed an order in W.P.No.35892 of 2019, and the operative portion reads as follows :

'3. Be that as it may. This Court is not conducting any roving enquiry under Article 226 of Constitution of India in the dispute involved in this writ petition. Therefore, this Court is constrained to pass the following order :

- i. The second respondent is directed to conduct enquiry into the dispute involved in this writ petition and afford an opportunity of personal hearing to the petitioner*



W.P.No.3137 of 2021

and the second respondent is also directed to conduct survey in respect of the property in question in the presence of the petitioner with the help of a Taluk surveyor and thereafter pass appropriate orders on merits and in accordance with law, with regard to the alleged encroachment.

ii. The entire exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.'

4. The grievance of the petitioner is that though this Court in its order dated 10.02.2020 in W.P.No.35892 of 2019 had directed the second respondent to conduct enquiry after giving sufficient opportunity or personal hearing to the writ petitioner and further directed the second respondent to conduct survey in respect of the property in question in the presence of the writ petitioner with the help of Taluk surveyor and thereafter to pass suitable orders, the second respondent without complying the said order, had issued the impugned notice dated 18.01.2021, which is now under challenge in the present writ petition. Aggrieved by this, the petitioner was constrained to file this writ petition.



W.P.No.3137 of 2021

5. Heard Mr.N.Manokaran, learned counsel for the writ petitioner and

Mr. P.Balathandayutham, learned Special Government Pleader for the State.

5. Mr.P.Balathandayutham, learned Special Government Pleader would submit that he has no instructions as to whether survey was conducted in the property in question, in pursuance to the directions of this Court in W.P.No.35892 of 2019 dated 10.02.2020.

6. In the said circumstances, we deem it appropriate to pass the following orders :

(a) The second respondent namely the Executive Engineer, Narashimma Naickenpalayam, Town Panchayat, Coimbatore, to comply with the direction in W.P.No. 35892 of 2019 dated 10.02.2020 by conducting survey in the disputed property with the help of a Taluk Surveyor in the presence of the petitioner and to conduct enquiry and thereafter pass appropriate orders on merits and in accordance with law.

(b) Thereafter, if the petitioner is found to be in encroachment, the respondents are directed to proceed further, following the procedures



W.P.No.3137 of 2021

contemplated under Section 128(1)(b) of the Tamil Nadu Urban Local Bodies Act, 1998 (Tamil Nadu Act 9 of 1999).

(c) Such an exercise shall be completed within a period of 12 weeks from the date of receipt of a copy of this order.

With the above observation/direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

(M.S.,J.) (K.G.T.,J.)
12.07.2024

Index : Yes
Speaking
Neutral Citation : Yes / No
ds/vsn



WEB COPY



W.P.No.3137 of 2021

To:

- 1.The District Collector
Coimbatore District
Coimbatore.
- 2.The Executive Engineer
Narashimma Naickenpalayam
Town Panchayat
Coimbatore - 641 031.
- 3.The Tahsildar
Coimbatore North Taluk
Coimbatore District.



WEB COPY



W.P.No.3137 of 2021

M.SUNDAR, J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,

ds/vsn

W.P.No.3137 of 2021

12.07.2024

Page Nos.8/8