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W.P.No.7079 of 2013 & 24313 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2024

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.7079 of 2013 & 24313 of 2014

and

M.P.Nos.2, 4 to 6 of 2013 and 1& 2 of 2014

W.P.No.7079 of 2013

B.Gandhimathi

.... Petitioner

Vs

1. The Commissioner,
Oulgaret Commune Panchayat,
Puducherry – 5.

2. The Secretary,
Kurunchi Nagar Welfare Association,
No.15, 8th Cross, Kurunji Nagar,
Lawspet,
Puducherry – 8.

3. The Superintendent of Police (North),
O/o. The Superintendent of Police,
Puducherry.

4. The Inspector of Police,
Lawspet Police Station,
Puducherry.

(R3 & R4 impleaded as per order
dated 19.04.2013 in M.P.No.3 of 2013
in W.P.No.7079 of 2013)

.... Respondents



W.P.No.7079 of 2013 & 24313 of 2014

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorari, to call for the records in No.25-112/Ee.Po.(6) Ou.Na/2012-13 issued by the first respondent which was published in Dina Malar Daily dated 21.02.2013 and quash the same.

W.P.No.24313 of 2014

R.Sekar

Represented by his Power of attorney

N.Ramakrishnan

.... Petitioner

Vs

The Commissioner,
Oulgaret Commune Panchayat,
Puducherry – 5.

.... Respondent

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, to call for the records of the respondent relating to impugned gazette notification bearing No.F.No.25-112/JE(6)/O.M./2012-2013 dated 17.06.2014 published in the “The Gazette of Puducherry” quash the same and direct the respondent not to interfere with the petitioner's peaceful possession of the petitioner's property in Re-Survey No.23/22, Cadastre No.986.3/3, 986.3/3/3/8/32, 986.3/3/13/32, 986.3/3/20/32, 986.3/3/30/32, Village No.38, Patta No.416, Saram Revenue Village, Kurinji Nagar, Oulgaret Commune Panchayat, Oulgaret Sub Registration District, Puducherry Registration District to an extent of 2880 sq.ft. vide and in Re-Survey No.23/22, Cadastre No.986.3/3, 986.3/3/3/8/32, 986.3/3/13/32, 986.3/3/20/32, 986.3/3/30/32, Village No.38 Patta No.416 and in RE-Survey No.23/23 Cadastre No.986.3/3/31/32, 986.3/3/32/32 Patta



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No.1667 to an extent of 3590 sq.ft. in Saram Revenue Village, Kurinji Nagar, Oulgaret Commune Panchayat, Oulgaret Sub-Registration District, Puducherry Registration District.

W.P.No.7079 of 2013

For Petitioner : Mr.I.Abrar Md.Abdullah
For R1 : Mr.R.Sreedhar
Additional Govt. Pleader (Pondy)
For R2 : Mr.R.Prabhakar

W.P.No.24313 of 2014

For Petitioner : Mr.I.Abrar Md.Abdullah
For Respondent : Mr.R.Sreedhar
Additional Govt. Pleader (Pondy)

COMMON ORDER

W.P.No.7079 of 2013 has been filed challenging the publication issued by the first respondent dated 21.02.2013, thereby the land in R.S.No.23/22B owned by the petitioner to an extent of 113.46 square meters is proposed to be used as a passage for the villagers under the Puducherry Municipalities Act.

2. W.P.No.24313 of 2014 has been filed challenging the gazette notification dated 17.06.2014 published in the Gazette of Puducherry, thereby declared the petitioner's patta land as public streets.



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

4. The petitioners owned the subject land and they were issued patta. Both the petitioners are neighbouring land owners. While being so, the respondent issued notification, thereby stated that the subject lands are going to be declared as public streets. Therefore, both the petitioners submitted their objections to declare their respective properties as public streets.

5. On instruction, Mr.R.Sreedhar, Additional Government Pleader (Pondy), submitted that the original subject land was ear marked as road as per the layout. However, the said layout was modified and the petitioners had purchased the ear marked portion. He further submitted that as per Section 256(2) of the Puducherry Municipalities Act, 1973, the owners are entitled for compensation under Section 479 of the Puducherry Municipalities Act, 1973.

6. A perusal of the notification dated 05.02.2013 reveals that the subject properties are going to be declared as public street and



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the same was issued under Section 256(1) of the Puducherry Municipalities Act, 1973. Accordingly, the petitioners submitted representations by way of objections, thereby objected to declare the subject property as public street.

7. The learned counsel appearing for the petitionerS has also pointed out that the adjacent to the subject land, there is a permanent road. Therefore, the respondent has no need to declare the subject property as public street. However, the objections raised by the petitioners are pending with the respondent. Further the petitioner in W.P.No.7079 of 2013 had constructed her house in the subject property. The objections raised by both the petitioners are pending with the respondent.

8. Considering the facts and circumstances of the case, the respondents are directed to consider the representation of the petitioners , after issuance of notice to the petitioners and give an opportunity of hearing to them, and pass appropriate orders on the objections raised by the petitioners in respect of declaring their land as public street within a period of twelve weeks from the date of receipt of a copy of this order.



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However, the petitioners are at liberty to submit additional documents, if any.

9. With the above direction, this writ petition stands disposed of. Consequently, connected miscellaneous petitions are closed.

No costs.

10.06.2024

Internet : Yes

Index : Yes/No

Neutral Citation : Yes/No

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To

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G.K.ILANTHIRAIYAN, J.

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