



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2024

CORAM :

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

**Writ Petition Nos.23796 & 23800 of 2019
and WMP Nos.23660, 23664, 33031 & 32231 of 2019**

WP.No.23796 of 2019

Dayalal D.Patel

.... Petitioner

-Vs-

1.The District Collector
Krishnagiri District
Krishnagiri

2.The Commissioner
Hosur Municipality
Hosur
Krishnagiri District.

3.The Tahsildar
Hosur Taluk
Krishnagiri District.

.. Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records relating to the order of the second respondent in his proceedings Na.Ka.No.3585-3041/2018/F1 dated 26.02.2019 and quash the same.



WEB COPY



For Petitioner

: Mrs.AL.Ganthimathi
Senior Counsel
for Mr.V.Kumaravelan

For Respondents

: Mr.N.Naveen Kumar
Government Advocate
for R1 & R3

Mr.N.Subbarayalu
for R2

WP.No.23800 of 2019

Vinod K.Patel

.... Petitioner

.Vs.

1.The Commissioner
Hosur Municipal Corporation
Bagalur Road, Hosur
Krishnagiri District.

2.The Tahsildar
Hosur Taluk
Krishnagiri District.

.. Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the 1st respondent herein to forthwith remove the board erected in the property of the petitioner of an extent of 2760 sq.ft., bearing Plot No.60, in S.No.181/1A, New S.No.181/1A1A, Hosur Taluk, Krishnagiri District.



For Petitioner : Mrs.AL.Ganthimathi
Senior Counsel
for Mr.V.Kumaravelan

For Respondents : Mr.N.Subbarayalu
for R1

Mr.N.Naveen Kumar
Government Advocate
for R2

COMMON ORDER

W.P.No.23796 of 2019, had been filed in the nature of a Certiorari seeking records relating to an order of the 2nd respondent, Commissioner, Hosur Municipality in Krishnagiri District dated 26.02.2019 and to quash the same. WP.No.23800 of 2019 had been filed by the petitioner in the nature of a Mandamus seeking a direction against the 1st respondent, Commissioner, Hosur Municipal Corporation in Krishnagiri District, to remove the board erected in Plot No.60 in Survey No.181/1A, New Survey No.181/1A1A, Hosur Taluk in Krishnagiri District.

2.Let me take up the facts in WP.No.23796 of 2019. Both the writ petitioners stated that they had purchased their respective Plots in the aforesaid



lands. The respondent viz., Commissioner, Hosur Municipality had cancelled the regularization without any notice had put up a board that the Plot actually belongs to the Hosur Municipality.

3.It is the contention of the learned Senior Counsel for the petitioner in WP.No.23796 of 2019 that the writ petitioner therein had purchased lands at Survey No.181/3, Plot No.59, R.K.Nagar, Hosur Town by sale deed dated 11.07.2006 registered as Document No.8253 of 2006, on the file of the Sub-Registrar, Hour. Subsequently, patta had also been granted to the petitioner in the year 2007. The petitioner then applied for regularization of the Plot and that was also granted on 05.02.2019.

4.It is contended by the learned Senior that without any notice, the impugned order came to be passed cancelling the regularization by the impugned order passed on 26.02.2019. The learned Senior Counsel pointed out that the very same authority had granted regularization on the basis of the sale deed by which the petitioner had purchased the property and thereafter had taken a decision to cancel the regularization necessitating the filing of the writ petition.



5. In WP.No.23800 of 2019 it is pointed out that the writ petitioner therein had purchased the Plot No.60 in Survey No.181/1A, New Survey No.181/1A1A in Hosur Taluk and that the 1st respondent viz., the Commissioner, Hosur Municipal Corporation had put up a board claiming that the petitioner is in unlawful occupation.

6. The learned counsel appearing on behalf of the 1st respondent, the Commissioner, Hosur Municipal Corporation, claimed that larger area measuring about 1.22 hectares was set apart for preparing a layout. The Plots purchased by the petitioners herein were earmarked as park. It had been contended that this particular land had been set out exclusively for park but had been subdivided into Plots. The two petitioners had purchased the same.

7. It is contended on behalf of the respondents that the Government was aware of innocent purchasers of unapproved Plots and it was under those conditions two separate Government Orders had been passed in G.O.Ms.No.78 and 172 dated 04.05.2017 and 13.10.2017 respectively. But it is further contended on behalf of the respondents that the petitioners purchased the land



which had been specifically allotted for a park. It is therefore contended that the respondents were well within their rights to pass the impugned order.

8.The learned counsel for the respondents placed reliance on the judgment of a Division Bench of this Court in *Sri Devi Nagar Residences Welfare Association, rep. By its President and Another .vs. Subbathal and Others reported in (2007) 3MLJ 990*, wherein, the Division Bench had examined the usage of land allotted for a school and had held that claiming regularization of the same could not be granted and that the land should be retained only for the public purpose for which it was originally earmarked.

9.The learned Senior Counsel for the petitioners also placed reliance on the observation of a learned Single Judge of this Court in *D.Shanmugam .v. The Deputy Director of Town and Country Planning and Others in WP.No.15489 of 2020*, wherein by an order dated 04.11.2020, the learned Single Judge was of the opinion that an impugned order passed without issuing notice could not withstand the scrutiny of the Court and had therefore quashed the impugned order and directed fresh enquiry to be conducted.



10. The only issue is whether the regularization already granted could be cancelled by the very same authority without issuing notice. The authority which had granted the regularization and the authority which had cancelled the regularization was the Commissioner, Hosur Municipal Corporation. Once regularization had been granted the authority becomes functus officio. If it is required to revisit the said order than the beneficiary of the earlier order should be put on notice and reasons must be given while the regularization order already granted is not correct and has to be revisited and thereafter, a fresh order had to be passed. Such order can be passed only after necessary opportunity to the individual who had benefited by the earlier order. The principles of natural justice cannot be foregone at the whims and fancies of the authority.

11. In the instant case, it is fairly admitted that notices had not been issued. One of the conditions under which regularization was granted was that if any suppression of facts is found, then without notice, the regularization can be cancelled. It is a moot question whether the petitioners are innocent purchasers. That is an issue which can be determined only by the Commissioner Hosur Municipal Corporation. It could be determined only when opportunity is granted to the petitioners to put forth their case. It is only appropriate that an enquiry in



manner known to law is conducted. It is clear from the face of records that the petitioners had purchased Plots earmarked specially for Park. If their vendors had misled them, they can even explore the possibility to seek to be indemnified. mislead them.

12.The petitioners had also filed WMP.No.32231 of 2019 & WMP No.33031 of 2019 in the two writ petitions respectively to implead the vendors as further respondents. But however since it is stated that regularization had been cancelled without notice, I would interfere with the order challenged in WP.No.23796 of 2019 and set aside the same and direct the respondents to issue proper notice to the petitioner and examine the sale deeds by which the petitioner had purchased the property and also examine the document by which vendor had purchased the property and whether they knew that the lands had been allotted for a Park and then proceed in accordance with law.

13.The imleading applications are not ordered as they are not required to be heard in the present writ Petition.



14. Insofar as WP.No.23800 of 2019 is concerned, till the enquiry process is conducted, let there be restraint in interference with the physical possession. The respondents are granted permission to issue notice and conduct enquiry in manner known to law. The burden is on the petitioners to participate in any such enquiry. Specifically the Commissioner Hosur is at liberty to proceed further. The enquiry should be completed within a period of four months from the date when the petitioners appear for enquiry. The impugned order is set aside. The respondents are directed to remove the board.

15. Both the Writ Petitions stand allowed. WMP Nos.32231 of 2019 and 33031 of 2019 are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

10.12.2024

Index : Yes/No

NCS : Yes/No

KP



WEB COPY



C.V.KARTHIKEYAN.,J
KP

To

- 1.The District Collector
Krishnagiri District
Krishnagiri
- 2.The Commissioner
Hosur Municipality
Hosur
Krishnagiri District.
- 3.The Tahsildar
Hosur Taluk
Krishnagiri District.

Writ Petition Nos.23796 & 23800 of 2019

10.12.2024