



W.P.No.28327 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2024

CORAM :

THE HON'BLE MR. JUSTICE S.S.SUNDAR
AND
THE HON'BLE MR.JUSTICE G.ARUL MURUGAN

W.P.No.28327 of 2023

1. R.Saraswathi

2. Aarthi
D/o Ramu

3. Keerthigadevi
D/o Ramu

4. Lakshmi
D/o Ramu

.. Petitioners

v.

1. The Commissioner
Nandhivaram-Guduvancheri Municipality
Municipal Office
No.10, GST Road
Nandhivaram-Guduvancheri
Chennai 603 202

2. L.Sarala

.. Respondents



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Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, by calling for records leading to the Provisional Order bearing Deviation No.1/2023 dated 05.04.2023 passed by the 1st respondent and quash the same.

For Petitioners :: Mr.B.Arvind Srevatsa

For Respondents :: R1-No appearance
Mr.J.Selvarajan for R2

ORDER

(Order of the Court was made by S.S.SUNDAR,J.)

W.M.P.No.27854 of 2023 seeking permission to file a single writ petition stands allowed.

2. This writ petition is filed for issuance of a writ of certiorari to call for the records leading to the provisional order bearing Deviation No.1/2023 dated 05.04.2023 passed by the first respondent and quash the same.

3. The brief facts that are necessary for the disposal of this writ



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petition are as follows:

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(a) The petitioners are the wife and children of one Mr.Ramu. It is the case of petitioners that the first petitioner is the absolute owner of the property comprised in Old Survey No.121/A corresponding to New Survey No.121/A29B bearing Door No.8 in Achudoss Street, Jesupatnam Nagar, Guduvancheri measuring an extent of 2400 sq.ft. It is the further case of petitioners that this property was allotted to the first petitioner through a partition deed, which was between the first petitioner's mother and sister. The further case of the first petitioner is that the first petitioner and the second respondent had agreed to leave a common passage to an extent of 300 sq.ft., with six feet width. It appears that there is a dispute with regard to the width of the common pathway, which was originally agreed and this had given rise to a cause of action for the second respondent to file a civil suit in O.S.No.34 of 2023 before the District Munsif Court, Chengalpet. Meanwhile, the first petitioner had settled the property in favour of her daughters, namely, the petitioners 2 to 4 by a document dated 08.02.2022.

(b) After granting building permission by proceedings dated 11.07.2022, the first respondent has issued the impugned notice on the basis



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of the complaint lodged by the second respondent. Though the impugned order does not refer to the objection/representation of the second respondent, the first respondent, by the impugned order, has directed the petitioners not to put up any construction till such time the structure is brought down according to the approved building plan and other conditions. The first respondent has thereafter directed the petitioners to show cause why the order directing demolition should not be confirmed. Aggrieved thereby, the petitioners have preferred the above writ petition.

4. Though one part of the impugned order can be construed as a mere show cause notice, the conclusion that the petitioners had put up construction in violation of the building plan approval and that the offending construction is liable to be removed, is without giving opportunity to the petitioners. Hence, on the short ground of violation of principles of natural justice, this writ petition is allowed and the impugned order is set aside. However, the first respondent is given liberty to proceed afresh in accordance with law after issuing show cause notice to the petitioners pointing out the nature of violations with reference to the



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building plan approved. Consequently, W.M.P.Nos.27855 & 27857 of 2023

are closed. No order as to costs.

Index : yes/no

(S.S.S.R.,J.)

(G.A.M.,J.)

Neutral citation : yes/no

04.03.2024

SS

To

1. The Commissioner
Nandhivaram-Guduvancheri Municipality
Municipal Office
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Chennai 603 202



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S.S.SUNDAR,J.

AND

G.ARUL MURUGAN,J.

SS

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