



WEB COPY



WP.No.34156 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2024

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.No.34156 of 2024
and
W.M.P.No.36974 of 2024
in
W.P.No.34156 of 2024

Dr.R.Kamesh
S/o.Late G.Radhakrishnan

... Petitioner

Vs.

1. The State
Rep. by the Principal Secretary
Revenue Department
Secretariat, Chennai-600 009.
2. The Executive Officer
Town Panchayat, Sriperumbudur
Kancheepuram - 602 105.

... Respondents

Prayer :

Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorari, calling for the records of the impugned order dated 25.09.2024 passed by the 2nd respondent in Na.Ka.No.16/2024 A1 and quash the same with respect to the property in Natham Survey

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No.1791/25 (new) as per Patta No.1443 measuring 3500 sq.ft within Old Survey Nos.835/1B/1B/1B and 2310 sq.ft within 835/1B/1B1 in Sriperumbudur Village, Village No.105 totalling an extent of 5810 sq.ft.

For Petitioner : Ms.S.P.Arthi
For Respondents : Mr.M.S.Arasakumar
Government Advocate, for R1
Mr.K.Suresh
Government Advocate, for R2

ORDER

[Order of the Court was made by **M.SUNDAR, J.,**]

Captioned 'Writ Petition' {hereinafter 'WP' for the sake of brevity, convenience and clarity} has been filed assailing a 'notice dated 25.09.2024 bearing reference Na.Ka.No.16/2024 A1 issued by R2 [The Executive Officer, Town Panchayat, Sriperumbudur]' {hereinafter 'impugned notice' for the sake of brevity, convenience and clarity}.

2. Learned counsel for writ petitioner submits that subject matter of impugned notice is not public land, there is no encroachment and therefore, impugned notice is unwarranted.

3. Issue notice to respondents.



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4. Mr.M.S.Arasakumar, learned Government Advocate accepts notice for R1 and Mr.K.Suresh, learned Government Advocate accepts notice for R2.

5. Learned State Counsel, on instructions, advertng to impugned notice submit that survey is to be first made and depending on the report, if there is an encroachment, action will be initiated either under 'the Tamil Nadu Urban Local Bodies Act, 1998 (Tamil Nadu Act 9 of 1999)' {hereinafter 'TNULB Act' for the sake of brevity} or under 'the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' {hereinafter 'said 1905 Act' for the sake of brevity}.

6. In the light of the limited scope of captioned WP, main WP was taken up in the Admission Board with the consent of both sides.

7. We find that if there is an encroachment (post survey) and if the report says that there is encroachment, action will be taken either under TNULB Act or under said 1905 Act which means that the writ petitioner will be show caused either under Section 128(1)(b) of TNULB Act or under Section 7 of said 1905 Act. This, in our considered view, adequately safeguards the interest of writ petitioner. We make it clear that all rights and



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contentions of the writ petitioner remain preserved for sending his response on being show caused{if that be so and if hat is the case}. Though obvious, we make it clear that it will be curtains/end of the road, if the report qua survey says that there is no encroachment.

8. In the light of the narrative thus far, captioned WP is disposed of recording the stated position of learned State Counsel making it clear that we have not expressed any view or opinion on the merits of the matter and all questions are left open and all rights of the writ petitioner as well as State Counsel are preserved. Consequently, captioned Writ Miscellaneous Petition is also disposed of as closed. There shall be no order as to costs.

(M.S.,J.) (K.R.S.,J.)
15.11.2024

Index : Yes / No
Neutral Citation : Yes / No
Speaking order / Non-speaking order
mk



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To

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