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W.P. No.39762 of 2024

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.12.2024

CORAM:

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE V. LAKSHMINARAYANAN

W.P. No.39762 of 2024

and

W.M.P. Nos.43057 and 43058 of 2024

1. M. Shanmuganathan
2. S. Akila
3. S. Aravindan

.... Petitioners

VS

1. The District Collector,
Singaravelar Maligai,
Chennai.
2. The Executive Engineer,
Zone – 1,
Greater Chennai Corporation,
Zonal Office – 01,
No.945, Thiruvottiyur High Road,
Thiruvottiyur,
Chennai – 600 019.

.... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari calling for the concerned records relating to the notice No. Z.O.X.C.No/37/2023 dated 26.08.2023(which was received by the 3rd petitioner through whatsapp on 20.12.2024) issued by the 2nd respondent and quash the same



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For Petitioner : Mr.M. Gnanasekar
For Respondents : Ms.S. Anitha
Spl. Govt. Pleader for R1
Mr.E.C. Ramesh
Standing Counsel for R2

ORDER

[Order of the Court was made by S.M. SUBRAMANIAM, J.]

The notice, dated 26.08.2023 issued under Section 128 of the Tamil Nadu Urban Local Bodies Act, 1998 is sought to be assailed in the present writ proceedings.

2. The learned counsel for the petitioners Mr.Gnanasekar would submit that the impugned show cause notice was served on the petitioners only on 20.12.2024. Therefore, the present writ petition has been filed.

3. The learned counsel for the writ petitioners made a submission that the waterbody / Thamaraiikulam in the present case was assigned in favour of the father-in-law of the 1st petitioner vide assignment, dated 01.07.1974. The Assignment of Government lands / water bodies are made under the Revenue Standing Order, before commencement of the



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Act. Therefore, all assignments and the conditions stipulated in the assignment orders are subject to the conditions stipulated under the Revenue Standing Order. If the assignee violates any of the clauses of the Revenue Standing Order or the terms and conditions stipulated in the assignment, it is liable to be cancelled by the competent authority. Therefore, assignment of the Government lands / Pond would not confer right to title and it is subject to the terms and conditions of the Revenue Standing Orders, under which such assignments are granted by the revenue authorities.

4. In the present case, the assignment of pond was made in the year 1974. The Hon'ble Supreme Court of India and the High Courts have passed number of judgments / orders holding that the water bodies are to be protected. Therefore, the assignment made in respect of water bodies are to be re-visited with reference to the Revenue Standing Orders and based on the relevant records.

5. In the present case, the writ petition has been instituted challenging the show cause notice. Delay occurred, since the notice was served only in November 2024 in the name of a dead person. However



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the copy of the notice has been enclosed along with the typed set filed in the present writ petition. Therefore the petitioners are at liberty to submit their explanations / objections along with the documents, if any, to the competent authority in response to the show cause notice dated 26.08.2023 and on receipt of any such explanations, the respondents shall consider and take a decision and pass speaking orders on merits and in accordance with law. The petitioners are at liberty to submit their explanation, within a period of fifteen days from the date of receipt of a copy of this order. Thereafter, the respondents shall pass final orders as expeditiously as possible.

6. With the aforesaid directions, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

[S.M.S.J.] [V.L.N.J.]
27.12.2024
(2/2)

Index: Yes/ No
Speaking order / Non speaking order
Neutral citation : Yes / No
vsi2



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AND

V. LAKSHMINARAYANAN, J.

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