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W.P(MD)No.5268

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.04.2024

CORAM :

**THE HONOURABLE MR.JUSTICE R.SURESHKUMAR
and
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

**W.P(MD)No.5268 of 2024
and
WMP(MD)Nos.5055 and 5051 of 2024**

K.Rajendran

... Petitioner

VS.

1. The District Collector,
Ramanathapuram District,
Ramanathapuram.

2. The Tahsildar,
Paramakudi Taluk,
Paramakudi, Ramanathapuram District.

3. The Commissioner,
Paramakudi Municipality,
Paramakudi,
Ramanathapuram District.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned notice issued and affixed on the compound wall of the petitioner constructed in the land comprised in Town Survey No.7 bearing Old Survey Nos.22/1 Part and 22/3 measuring about 600 Sq.Mt. situated at Ward No.H Block - 29 CSM Boarding Road Street, Paramakudi Town and Taluk, Ramanathapuram District, by the 3rd respondent in his proceedings in Na.Ka.No.378/2024/F1, dated 23.02.2024 and quash the same within the time frame as fixed by this Court.



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For Petitioner
For R1 & R2
For R3

: Mr.B.Prahalad Ravi
: Mr.S.Shaji Bino, Special Government Pleader
: Mr.Prasanna Rajadurai, Standing Counsel

ORDER

(Order of the Court was made by **R.SURESHKUMAR, J.**)

Challenging the show cause notice dated 23.02.2024, issued by the 3rd respondent, the petitioner has filed this writ petition.

2. With regard to the land to an extent of 600 square meters at Town Survey No.7, Ward No.H, Block-29, CSM Boarding Road Street at Paramakudi Municipality limit, it is the claim of the 3rd respondent Municipality that the land belongs to the Municipality. However, it is the claim of the writ petitioner that the property in question had been purchased by his father, by way of a registered sale deed, dated 27.12.2002, for a valid sale consideration from the erstwhile owner/vendor, since then, his father, subsequently himself has been in possession and enjoyment of the property.

3. Therefore, it is the submission of Mr.B.Prahalad Ravi, learned counsel appearing for the petitioner, that, the property does not belong to the 3rd respondent, but only the property of the petitioner, as he inherited the same from his father, who purchased the same in the year 2002. Therefore, the notice that has been issued by the 3rd respondent dated 23.02.2024, which is impugned herein, directing the



petitioner to produce the documents to establish the title over the property, is without jurisdiction and unwarranted exercise. Moreover, in the said notice, no reasonable time had been given, even to put forth the case of the petitioner by producing necessary documents. Therefore, on these grounds, the said notice dated 23.02.2024 issued by the 3rd respondent has been put under challenge.

4. However, Mr.Prasanna Rajadurai, learned Standing Counsel appearing for the 3rd respondent, would submit that, the land belongs to the 3rd respondent Municipality and in order to establish the same, the Municipality is having necessary documents. When that being so, when an attempt was made to put up a compound wall in the land in question by the petitioner, it has been questioned. Therefore, the said notice dated 23.02.2024 was issued. Instead of responding to the said notice, the petitioner had rushed to this Court, by filing the present writ petition. Therefore, on the ground of challenging the show cause notice itself, the writ petition is not maintainable and moreover, on merits also, the petitioner does not have any case to project before this Court. Therefore, the learned standing counsel appearing for the 3rd respondent as well as the learned Special Government Pleader appearing for the respondents 1 and 2, seek indulgence of this Court to dismiss the writ petition.

5. We have considered the said rival submissions made by the learned counsel appearing for both sides and perused the materials placed before this Court.



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6. As rightly pointed out by the learned counsels for the respondents that, the impugned communication dated 23.02.2024, is a notice. Therefore, it could have been replied by the petitioner properly, if he is advised to do so. However, without giving reply, the petitioner has approached this Court.

7. However, the reasons stated by the learned counsel appearing for the petitioner for approaching this Court is that only a short time had been given to respond to the show cause notice, before which, since it could not be replied, the petitioner had no other option, except to approach this Court seeking indulgence of this Court against such notice. He would also submit that there has been a registered sale deed in favour of the father of the petitioner with regard to the property in dispute. Therefore, it cannot be treated as a property of the 3rd respondent Municipality, that is also an additional reason, for which, the petitioner has approached this Court.

8. Though such a submission had been made by the learned counsel appearing for the petitioner, we feel that insofar as the claim that has been made by the Municipality is concerned, it is a different case of the Municipality that the land belongs to them. Therefore, in order to substantiate the same, they are having the documents. If that being so and the notice impugned is issued as a show cause notice and in response to the same, the petitioner can very well file a reply along with



documents, if any, like, sale deed of the year 2002, and substantiate the case before the Municipality. If the Municipality does not satisfy with the same and if they pass any adverse order, it is open to the petitioner to work out his remedy against such order passed by the Municipality, in the manner known to law. Instead, the petitioner ought not to have come before this Court to challenge the show cause notice, which is impugned herein.

9. However, the learned counsel appearing for the petitioner has submitted that, if two weeks time is granted, in response to the show cause notice, reply will be given along with the documents to substantiate the contention of the petitioner. Having regard to the said submission made by the learned counsel appearing for the petitioner, we are inclined to dispose of this writ petition with the following order:-

(i) That the impugned communication is only a show cause notice which cannot be successfully challenged. Therefore, in respect of the prayer sought for herein, by the petitioner is concerned, it is liable to be rejected and accordingly rejected.

(ii) However, it is open to the petitioner to give reply to the show cause notice, which is impugned herein, with documents if any, within a period of two weeks from the date of receipt of a copy of this order.

(iii) On receipt of such reply with documents from the



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petitioner, the 3rd respondent Municipality shall give a personal hearing to the petitioner and thereafter can take the decision with regard to the initiation of issuance of notice through the impugned communication and accordingly, they can pass final order.

(iv) Till such decision is taken by the 3rd respondent Municipality, as indicated above, in respect of the property in question, no construction shall be undertaken by the petitioner.

10. With these directions, the Writ Petition is disposed of. No costs.

Consequently, connected miscellaneous petitions are closed.

(R.S.K., J.)

(G.A.M., J.)

04.04.2024

Index : Yes / No
Neutral Citation : Yes / No
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