



W.P(MD)No.11699 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.06.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

**W.P(MD)No.11699 of 2024
and
W.M.P(MD)No.10441 of 2024**

S.P.Ramasubramanian

... Petitioner

VS.

The Commissioner,
Rajapalayam Municipality,
Virudhunagar District.

... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records pertaining to the impugned order dated 22.05.2024 in Na.Ka.No.6097/2023/F1 issued by the respondent in respect of T.S.Nos.38/1 and 38/4, Rajapalayam Town, Virudhunagar District and quash the same as illegal, arbitrary and in violation of the principles of natural justice.

For Petitioner

: Mr.Y.Prakash

For Respondent

: Mr.N.Dilip Kumar
Standing Counsel



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ORDER

(Order of the Court was made by R.SURESH KUMAR, J.)

The prayer sought for in this Writ Petition is for a Writ of Certiorari, to quash the impugned order, dated 22.05.2024 in Na.Ka.No.6097/2023/F1 issued by the respondent in respect of T.S.Nos.38/1 and 38/4, Rajapalayam Town, Virudhunagar District.

2.That the respondent Municipality had issued two separate orders, dated 22.05.2024 stating that the lands at Town Survey Nos.38/1 and 38/4, Rajapalayam Town, Virudhunagar District, belong to the respondent Municipality which is being encroached by the petitioner. Therefore, directions were given through the said orders to remove such encroachment.

3.The said orders though had been challenged in this Writ Petition on various grounds, admittedly, before issuing these orders, the respondent Municipality had not issued any show-cause notices. This position has been clarified by the learned standing counsel appearing for the respondent Municipality.



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4. Moreover, the learned counsel appearing for the petitioner has pointed out that all these lands are patta lands, which is evidenced from the extract from the Town Survey Land Register and extract to that effect has also been produced before this Court in the typed set of papers filed by the petitioner. Relying upon those documents, the learned counsel appearing for the petitioner would contend that those lands are patta lands and do not belong to the respondent Municipality. When that being so, without even any enquiry or notice to that effect straight away orders, dated 22.05.2024 since have been passed, those orders are under challenge, he contended.

5. We have considered the said submissions made by the learned counsel appearing for both sides.

6. As has been pointed out by the learned counsel appearing for the petitioner, which of course, is fairly accepted by the learned standing counsel appearing for the respondent Municipality that before issuing orders impugned, dated 22.05.2024, for two survey numbers, no show-cause notices had been given. Therefore, no opportunity also had been given to the petitioner to putforth his case as to whether the land in question is a



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7.Since the very basic principle of natural justice is violated as no show-causes have been given and the petitioner has not been put on notice before passing these orders, these orders cannot be sustained. Therefore, we are inclined to pass the following orders:

'That the impugned orders, dated 22.05.2024 passed by the respondent are set aside and the matter is remitted back to the respondent Municipality, where it is open to the respondent Municipality to issue show-cause notices by giving an opportunity to the petitioner to respond and on receipt of such show-cause notices, it is open to the petitioner to give written representation, thereafter, on considering the same, final orders can be passed by the respondent Municipality on merits and in accordance with law, within a period of two months from the date of receipt of a copy of this order.



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8. With these observations and directions, this Writ Petition is disposed of. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

[R.S.K.,J.] [G.A.M.,J.]
05.06.2024

NCC : Yes / No
Index : Yes / No
ps

To

The Commissioner,
Rajapalayam Municipality,
Virudhunagar District.



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R.SURESH KUMAR,J.
and
G.ARUL MURUGAN,J.

ps

ORDER MADE IN
W.P(MD)No.11699 of 2024

DATED : 05.06.2024