



WP(MD)Nos.20290, 20291 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 27.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

WP(MD)Nos.20290, 20291 of 2024
and
WMP(MD)Nos.17212, 17214 of 2024

M/s.G.A.Sundarapandian & Co.,
Rep. by its Proprietor
M.Nainar Joseph

: Petitioner in both WPs

Vs.

- 1.The District Collector,
Madurai District.
- 2.The Revenue Divisional Officer,
Usilampatti,
Madurai District.
- 3.The Tahsildar,
Usilampatti Taluk,
Madurai District.
- 4.The Commissioner,
Usilampatti Municipality,
Madurai District.



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5.The Superintending Engineer,
National Highway Authority of India,
Door No.5, Besant Road,
Chinna Chokkikulam,
Madurai – 625 002.

: Respondents in both WPs

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus forbearing the respondents from disturbing the peaceful conduction of business by the petitioner under the name and style of M/s.G.A.Sundarapandian & Co., at Door Nos.340 & 342, respectively, Peraiyur Road, Usilampatti Town, Madurai District in Town Survey No.14/89, Old Nos.235/3 and 240/3A, Usilampatti Village, Madurai District, without resorting to acquisition of land under any of the Land Acquisition Enactments.

For Petitioner : Mr.J.Barathan

For Respondents: Mr.B.Saravanan
Government Advocate
for R.1 to R.3, R.5

No appearance for R.4

[In both WPs]



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COMMON ORDER

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The petitioner has filed these writ petitions with a grievance that the fourth respondent / Usilampatti Municipality is disturbing his peaceful conduct of business in Door Nos.340 & 342, respectively, of Peraiyur road, Usilampatti Town, Madurai District, comprised in Town Survey No.14/89, Old Nos.235/3, 240/3A of Usilampatti Village.

2.Learned Counsel for the petitioner submitted that the property in Door No.340 originally belonged to one Masana Nadar and he sold the property to one Athi Narayanan and Mahalingam, vide sale deed dated 25.01.1967 in Doc.No.379/1967. Under an oral partition, the property devolved on Mahalingam, from whom, his son Mohan, the petitioner's father, got the property. He further submitted that the property in Door No. 342 originally belonged to one Somu Nadar and after his demise, it devolved upon his sons, Jeyaraj and Soundarapandian. Upon a partition deed dated 01.06.1995 in Doc.No.1206/1995, the property devolved on Jeyaraj. After his demise, his legal heirs sold the property to Mohan, the



petitioner's father, vide sale deed dated 29.05.2002 in Doc.No.1046/2022.

Thereafter, the properties devolved on this petitioner, Nainar Joseph and he is running the shops in the said properties for the past thirty years.

3.He further submitted that both Masana Nadar and Somu Nadar are brothers and they have obtained a decree in their favour in OS.No.110 of 1929, which was also confirmed in AS.No.96 of 1933, dated 31.03.1933 and 16.07.1936, respectively. While so, the fourth respondent Municipality is unnecessarily interfering as if this petitioner has put up the shops in the road margin, however, the fourth respondent has not issued any notice to the petitioner. Since the fourth respondent is harassing him, without following due process of law, the petitioner is constrained to file these writ petitions.

4.Considering this submission of the petitioner's Counsel that the fourth respondent, without issuing any notice, is harassing the petitioner, who is said to be having a valid title, this Court verified with the learned Government Advocate to get instructions from the fourth respondent. This



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Court was informed that a separate Standing Counsel is representing the fourth respondent Municipality. Therefore, the matter was passed over and the learned Government Advocate was directed to inform the Standing Counsel to get instructions in this regard and to report.

5.The writ petitions were again taken up for hearing in the afternoon session around 02.30 PM. One Mr.Micheal Sebastin, learned Counsel, represented that he is taking notice for the fourth respondent. This Court verified as to whether he is the Standing Counsel for the Usilampatti Municipality. Only then, he informed that one Mr.Austin, learned Counsel, is the Standing Counsel and that he instructed him to take notice on behalf of the fourth respondent / Usilampatti Municipality. It is not known as to how a Counsel, who is not authorized by the Municipality, is taking notice on behalf of the Municipality. Such practice is not appreciable.

6.In the morning session, there was no representation for the Municipality. Even after passing over the matter in the morning session and the information given by the learned Government Advocate, the



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Standing Counsel for the Usilampatti Municipality has not appeared before this Court in the afternoon session. This is not the first instance this Court is noting down such incidents. The Counsels, who are not having adequate practice, have been identified as Panel Counsels and these Panel Counsels are also not appearing before the Courts. This is a glaring example. It is informed that the concerned Standing Counsel is out of station. It is better for the Municipalities to appoint Counsels, who are having regular practice before the Courts.

7. With regard to the plea of the petitioner, considering the submissions made by the petitioner's Counsel, these writ petitions are disposed of, with a direction to the respondents not to harass / disturb the petitioner, without following due process of law.

There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Internet : Yes
Index : Yes / No
NCC : Yes / No
gk

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