



W.P.Nos.16245 and 16249 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2025

CORAM

THE HONOURABLE MR. JUSTICE M.SUNDAR

and

THE HONOURABLE MR. JUSTICE HEMANT CHANDANGOUDAR

W.P.Nos.16245 and 16249 of 2021

&

W.M.P.Nos.17187 and 17189 of 2021

M.Sakthivel

...

Petitioner

in W.P.No.16245 of 2021

M.Subramani

...

Petitioner

in W.P.No.16249 of 2021

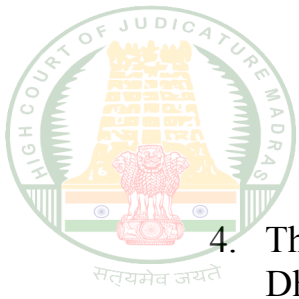
VS.

1. The District Collector
District Collectorate
Thiruppur District

2. The Revenue Divisional Officer
Udumalpet
Thiruppur District

3. The Thasildhar
Udumalpet
Thiruppur District

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4. The President
Dhali Town Panchayat
Udumalpet
Thiruppur District

5. The Executive Officer
Dhali Town Panchayat
Udumalpet
Thiruppur District

6. Deivanayaki ... Respondents
in both WPs

Common prayer : Writ Petitions filed under Article 226 of the Constitution of India to issue a writ of certiorari calling for the records relating to the order passed by the fifth respondent in Na.Ka.No.220/2019 dated 29.07.2021 and quash the same inasmuch as ordering the petitioners to demolish the major portion of their house treating the same as an encroachment.

For petitioners : Mr. S.Conscious Elango
in both WPs

For Respondents : Mr. T.K.Saravanan
in both WPs Additional Government Pleader
for R1 to R4

Mr.V.Manoharan for R5

Mr.A.Venkatesan for R6



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COMMON ORDER

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

This common order will govern the captioned two main 'Writ Petitions' ['WPs' in plural and 'WP' in singular for the sake of brevity] and captioned two 'Writ Miscellaneous Petitions' ['WMPs' in plural and 'WMP' in singular for the sake of brevity] thereat.

2. Subject matter of captioned main WPs is 'land comprised in S.F.No.1184, Dhali Village, Udumalpet Taluk, Tiruppur District' [hereinafter 'said land' for the sake of brevity and convenience].

3. R6 [Deivanayaki], Private respondent before us came to this Court earlier vide W.P.No.13120 of 2021 alleging encroachment in said land (to be noted, said land is also being described as Kamarajar Street and Ambedkar Street). This earlier WP was disposed of by another Hon'ble Division Bench in and by an order dated 08.07.2021 and most relevant portion of this order is a part of paragraph 8, which reads as follows:

'8.Since the Private Respondents would contend that there is no joint inspection conducted, it is appropriate to direct the Third and Fifth Respondents to conduct joint survey of Ambedkar Street on 15.07.2021 comprised in S.F.No.1184, situated at Dhali Post,



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Udumalpet Taluk, Tiruppur District after giving notice to the Petitioner as well as to the private respondent and taking into consideration of the planning permission granted by the authorities and revenue records...'

4. To be noted, the two writ petitioners in the captioned matters, namely Thiru.Subramani and Thiru.Sakthivel are R8 and R6 respectively in the previous WP.

5. Reverting to the case on hand, post aforesaid earlier order, R5 has conducted a survey / inspection of said land on 29.07.2021 and issued notices on the same day i.e., 29.07.2021 bearing reference *ந.க.எண்: 220/2019 inter alia* calling upon the writ petitioners before us to remove encroachment. Assailing these two notices captioned two main WPs have been filed and these two notices shall hereinafter be referred to as 'impugned notices' for the sake of convenience and clarity.

6. Notwithstanding myriad grounds and very many averments in the writ affidavits, we find that the matter turns on a very narrow compass as the survey made on 29.07.2021 has been made in the presence of officials but writ petitioners and R6 have neither been put on notice nor were they present. This runs contrary to the specific directive given in the earlier



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order. We are also of the view that it can be desirable to do a joint survey in the presence of writ petitioners and R6 considering the facts and circumstances of the case and nature of the matter.

7. Faced with the above situation, learned State counsel in his usual fairness submitted that there will be a roll back of impugned notices.

8. To put it differently, learned State counsel submits that impugned notices stand withdrawn. This submission is recorded.

9. In the light of the narrative thus far, the following order is made:

i) The impugned notices being two notices, both dated 29.07.2021 both bearing reference ந.க.எண்:220/2019 stand effaced / set aside on the basis of the stated position of the learned State counsel;

ii) Though obvious we make it clear that the impugned notices have not been set aside on merits but on the basis of stated position of learned State counsel and this is to facilitate survey afresh after putting on notice writ petitioners, R6 and in their presence;

iii) R3 under the supervision of R2 and other Revenue



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Officials will do well to conduct a joint survey of said land after putting on notice the two writ petitioners, R6 and any other person, who may be concerned with the matter and permit them to be present during the inspection;

iv) Two writ petitioners and R6 shall be present in the inspection but shall not disrupt the proceedings;

v) R3 shall draw up a survey report based on the inspection;

vi) In the aforesaid survey report drawn up in the aforementioned manner, if any encroachment/s is/are found, suitable action shall be initiated either under TNULB Act or under any other appropriate / applicable Statute;

vii) In any event, if any encroachment is found, the alleged encroachers, be it the writ petitioners or any other person, shall be afforded an opportunity as provided for qua the legal machinery / mechanism under the Statute concerned;

viii) If show-caused all the rights and contentions of writ petitioners including the contentions raised in the captioned



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WPs remain preserved for responding to the show-cause notice.

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ix) Coercive, if any, and if that be so, insofar writ petitioners are concerned, will be subject to and depending on proceedings for 'ROE' ['Removal of Encroachment'] to be initiated under appropriate/applicable Statute/s.

Captioned WPs disposed of in the aforesaid manner i.e., closed albeit with aforementioned directives and preservation of rights and contentions in the afore-referred manner. In the light of what we have written as regards coercive action, captioned WMPs have become otiose and the same are disposed of as closed. There shall be no order as to costs.

[M.S., J.]

[H.C., J.]

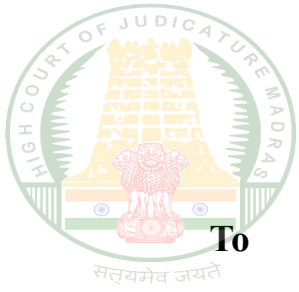
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M.SUNDAR, J.
and
HEMANT CHANDANGOUDAR, J.

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