

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21/7/2015

C O R A M

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.P. No.21809 of 2015
and
M.P. No.1 of 2015

M/s. Milka Industries (P) Ltd
rep. By its Managing Director
No.37 Old Mahabalipuram Road
Kazhipattur Village
Kancheepuram District 603 103. ... Petitioner

Vs

1. The Government of Tamil Nadu
rep. By the Secretary to Government
Revenue Department
Fort St. George
Chennai 600 009.
2. The District Collector
Kancheepuram District
Kancheepuram.
3. The Tahsildar
Tiruporur
Kancheepuram District.
4. The Revenue Inspector
Kelambakkam
Tiruporur Taluk
Kancheepuram District.
5. The Village Administrative officer
No.15 Muttukadu
No.14 Kazhipattur
Tiruporur Taluk
Kancheepuram District.
6. The Commissioner of Land Administration
Ezhilagam
Chepauk
Chennai 05. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus forbearing the respondents from dispossessing the petitioner of the land situated in S.No.97 Kazhpattur Village, Tiruporur Taluk, Kancheepuram District and demolishing any structure therein, pending disposal of the statutory appeal filed by the petitioner before the sixth respondent on 20/7/2015 against the order of the second respondent in Na.Ka.31923/2008/A1 dated 7/7/2015.

For petitioner ... Mr.S.R.Rajagopal
for Mr.K.Venkatasubramaniam

For respondents ... Mr. P.S. Sivashanmugasundaram
Special Government Pleader

O R D E R

(Order of the Court was made SATISH K. AGNIHOTRI, J.)

Mr.P.S.Sivashanmugasundaram, learned Special Government Pleader accepts notice on behalf of the respondents. With the consent of the learned counsel appearing for the parties, the matter is taken up for final disposal at the admission stage itself.

2. Impugning the order dated 7th July, 2015, passed by the District Collector, Kancheepuram District, in exercise of powers under Section 6 of the Land Encroachment Act (for short "the Act"), the petitioner has come up with this petition, seeking a direction to forbear the respondents from dispossessing the petitioner of the land situated in S.No.97 Kazhpattur Village, Tiruporur Taluk, Kancheepuram District and demolishing any structure therein, pending disposal of the statutory appeal filed by the petitioner before the sixth respondent on 20/7/2015 against the order of the second respondent in Na.Ka.31923/2008/A1 dated 7/7/2015.

3. It is worthwhile to mention that the petitioner has preferred a statutory appeal against the said order, under provisions of Section 10 of the Act, on 20th July, 2015, before the Commissioner of Land Administration, Ezhilagam, Chepauk, Chennai. Without waiting for a reasonable time, the petitioner has rushed to this Court with the instant writ petition on the very same day i.e., on 20th July, 2015.

4. Now, the petitioner has come up with the instant writ petition, seeking a mandamus which is normally issued against an authority for non-action or inaction or against wrong action. Certainly, this is not a case where issue of non-action, wrong action or inaction has arisen, as, the Appellate Authority has not been given an opportunity to take action, within the reasonable time. Thus, this writ petition for issuance of a writ of mandamus is not maintainable, at this stage.

5. We deprecate this practice of rushing to the writ Court invoking the extra-ordinary jurisdiction of the High Court under Article 226 of the Constitution of India, without waiting for a decision within the prescribed statutory period. This practice is tantamount to abuse of judicial process.

6. In view of the above, we are not inclined to entertain this writ petition at this stage and the same deserves to be dismissed. However, having regard to the facts and situation, status-quo, in respect of the property in question, as obtained today, shall be maintained for a period of one week from today. In the meantime, the petitioner may seek appropriate order in the pending appeal. No costs. Connected Miscellaneous Petition is also dismissed.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

mvs/cad.

To

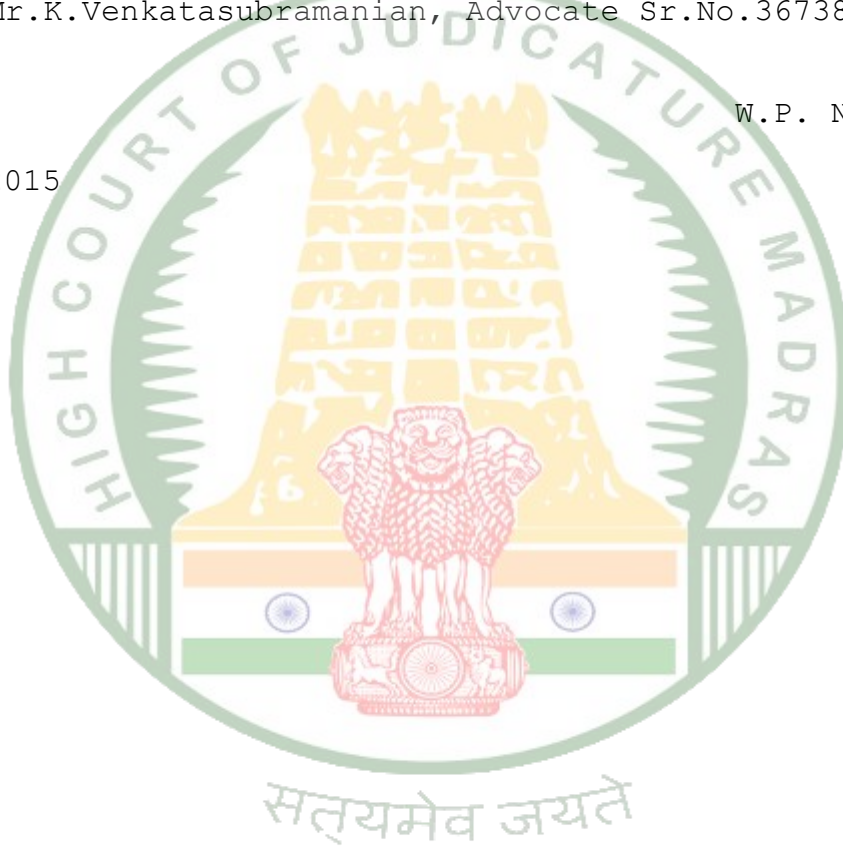
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Ezhilagam
Chepauk
Chennai 05.

1 cc to Government Pleader.Sr.No.37040
1 cc to Mr.K.Venkatasubramanian, Advocate Sr.No.36738

tej (co)
pmk.22.7.2015

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