

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2015

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.8957 of 2015

And

M.P.No.1 of 2015

P.Nagarajan

... Petitioner

Vs.

1. The District Collector
Thiruvallur District
Thiruvallur

2. The Public Information Officer cum Revenue Officer
Revenue Department
Avadi Municipality,
Chennai - 600 054.

3. The Commissioner
Avadi Municipality,
Avadi, Chennai - 600 054.

4. Mr.T.A.Meeran

... Respondents

Prayer:

Petition filed under section 226 of the Constitution of India to issue a Writ of Mandamus directing the 3rd respondent to cancel the tender in favour of the fourth respondent in respect of the final notice dated 19.01.2015 and 10.02.2015 issued by the third respondent to the fourth respondent and to take Criminal action against the persons who are all collecting the toll fee (Sunga Vasool) over and above the rate fixed under tender order in favour of the fourth respondent.

For Petitioner : Mr.V.Rameshvel

For Respondents : Mr.V.Jayaprakash Narayanan
for R1 to R3
Special Government Pleader

O R D E R

Heard Mr.V.Rameshvel, learned counsel appearing for the
petitioner and Mr.Mr.V.Jayaprakash Narayanan, learned Special

Government Pleader appearing for the respondents 1 to 3. With the consent of both the parties, this writ petition is taken up for final disposal at the admission stage itself.

2.The petitioner has filed this petition seeking for a direction to the third respondent to cancel the tender which has been granted to the fourth respondent on the ground that the fourth respondent is collecting more than the amount permitted to be collected as per the work order issued in his favour.

3.Earlier, petitioner came up before this Court by way of writ petition in W.P.No.28000 of 2014 seeking to consider his representation dated 25.07.2014 and to cancel the tender in favour of the fourth respondent in relation to collection of toll fee. In the said writ petition, the petitioner demonstrated as to how excess amount has been collected and this Court after taking into consideration the facts disposed of the writ petition by order dated 27.10.2014 by issuing the following directions:

"6.Since the Writ Petition is disposed of at the admission stage itself, the merits of the petitioner's claim is not considered and notice to fourth respondent is also dispensed with. Therefore, without going into the merits and the contentions raised by the petitioner, there will be a direction to the third respondent to consider the petitioner's representation dated 09.09.2014, and after issuing notice to the petitioner as well as to the fourth respondent, pass appropriate orders within a period of three weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed."

4.Thereafter, it appears that the enquiry was conducted by the respondent Municipality and a communication was sent to the petitioner's counsel on 11.12.2014 stating that the fourth respondent is not collecting over and above the amount he is authorised to collect. Even thereafter, since excess amounts were collected, the petitioner made one more complaint on 12.01.2015. On receipt of the complaint, notice was issued by the respondent Municipality on 19.01.2015 styled as a final notice. Even thereafter it appears that the fourth respondent did not restrict his collection to the authorised amount. Therefore, the petitioner made one more representation on 06.02.2015, pursuant to which final notice was issued on 10.02.2015 to the fourth respondent and till date no action has been taken pursuant to the notice and therefore, the petitioner as once again approached this Court by way of this Writ petition.

5.The issuance of two final notices dated 19.01.2015 and 10.02.2015 prima facie shows that the fourth respondent is collecting excess amount. Otherwise, notice would not have been issued to by the Municipality. Having issued notice, respondent Municipality is bound to conduct enquiry and pass final order in the matter and repeatedly final notice cannot be issued. Therefore, direction is issued to the third respondent Municipality to proceed further pursuant to the notices dated 19.01.2015 and 10.02.2015, conduct enquiry into the matter and pass final order, after hearing the petitioner and the fourth respondent and if it is found that excess amount is collected inspite of the earlier direction issued by this Court, proper legal action should be taken by the third respondent in this regard. However, during the course of enquiry, there shall be an order restraining the fourth respondent from collecting over and above the amount which he has been authorised to collect. The directions issued shall be complied with by the third respondent, within a period of four weeks from the date of receipt of a copy of this order.

6.This writ petition is disposed of with the above directions. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

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Sub Assistant Registrar

To

1. The District Collector
Thiruvallur District, Thiruvallur
2. The Public Information Officer cum Revenue Officer
Revenue Department
Avadi Municipality, Chennai - 600 054.
3. The Commissioner
Avadi Municipality,
Avadi, Chennai - 600 054.

+1cc to Mr.V.Ramesh Vel, Advocate, S.R.No.17385
+1cc to the Government Pleader, S.R.No.17435

RSY(CO)
CA(07/04/2015)

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