

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.09.2016

CORAM

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

W.P. No.17166 of 2016 &
WMP.No.14600 of 2016

P.Krishnamoorthy

.. Petitioner

Vs.

1. The Principal Secretary,
Home & Finance Department
St. Fort George, Chennai.

2. The Chairman,
Tamil Nadu Housing Board,
Chennai.

3. The Executive Engineer,
Erode Housing Board,
Surampattinaal Road,
Erode - 638 009.

4. Mathialagan

.. Respondents

PRAYER : Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the 2nd respondent herein to consider the representation dated 28.10.2015.

For Petitioner : Mr.V.Balamurugane

For Respondent : Mr.A.Kumar
Spl. Government Pleader- R1 to R3

O R D E R

This Writ Petition has been filed to direct the 2nd respondent to consider the representation of the petitioner dated 28.10.2015.

2. When the matter is taken up today, it is brought to the notice of this Court by the Special Government Pleader for the respondents 1 to 3 that the petitioner has already filed a civil suit to cancel the allotment of the fourth respondent and that suit has been dismissed and that fact has not been disclosed in this Writ Petition.

3. The petitioner has filed this Writ Petition to direct the respondent to consider his representation as if allotment has been fraudulently made to the 4th respondent. As the matter has already been settled in a civil court, the present Writ Petition filed seeking to consider the representation of the petitioner does not arise in view of the Order passed by this Court in (M. Ingaci vs. The Commissioner, Devakottai Municipality, Sivagangai District) 2010 2 Law Weekly 785, in which it has held that

19. There are also several instances where unscrupulous petitioners with the connivance of 'pliable' authorities have misused the direction 'to consider' issued by Court. We may illustrate by an example. A claim, which is stale, time-barred or untenable, is put forth in the form of a representation. On the ground that the authority has not disposed of the representation within a reasonable time, the person making the representation approaches the High Court with an innocuous prayer to direct the authority to 'consider' and dispose of the representation. When the court disposes of the petition with a direction to 'consider', the authority grants the relief, taking shelter under the order of the court directing him to 'consider' the grant of relief. Instances are also not wanting where authorities unfamiliar with the process and practice relating to writ proceedings and the nuances of judicial review, have interpreted or understood the order 'to consider' as directing grant of relief sought in the representation and consequently granting reliefs which otherwise could not have been granted. Thus, action of the authorities granting undeserving relief, in pursuance of orders to 'consider' may be on account of ignorance, or on account of bona fide belief that they should grant relief in view of the court's direction 'to consider' the claim, or on account of collusion/connivance between the person making the representation and the authority deciding it. Representations of daily-wagers seeking regularisation/absorption in to regular service is a species of cases, where there has been large-scale misuse of the orders 'to consider'.

In this case, with regard to the allotment of the property in question to the 4th respondent, a civil suit has also been filed to cancel the allotment in favour of the 4th respondent and the

suit has also been dismissed. Hence, this Court cannot give any direction to the respondent and the Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1. The Principal Secretary,
Home & Finance Department
St. Fort George, Chennai.
2. The Chairman,
Tamil Nadu Housing Board,
Chennai.
3. The Executive Engineer,
Erode Housing Board,
Surampattinam Road,
Erode - 638 009.

+1cc to Mr.V.Balamurugan, Advocate Sr.51432
+1cc to the Government Pleader Sr.51661

W.P. No.17166 of 2016

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srg 21/10/2016

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