

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.03.2016

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The Hon'ble Mr.Justice T.S.Sivagnanam

Review Application (Writ) No.110 of 2008

and

M.P.No.1 of 2008

Forest Range Officer,
Tambaram Taluk, Tambaram

...Review Applicant

Vs.

Aaron Samuel Hospital Society,
rep. by its Authorized Signatory,
Perungalathur, Chennai - 600 063.

...Respondent

This Review Application has been filed under Order XLVII Rule 1 r/w 114 of the Code of Civil Procedure against the order passed by this Court in W.P.No.6791 of 2008, dated 28.03.2008.

For Petitioner : Mr.N.Inbanathan
Government Advocate

For Respondent : Mr.S.Ramesh

ORDER

Heard the learned Government Advocate for the review applicant. The learned counsel for the respondent submitted that there is no instructions from the respondent.

2. The Writ Petition, against which, this Review Application is filed, is for issuance of Writ of Mandamus, to direct the respondent to forthwith issue No Objection Certificate (NOC) in favour of the writ petitioner for mutation of revenue records, and for carrying out developmental activities in the lands, comprised in S.No.298, situate at Perungalathur Village, ad measuring 20 acres.

3. It appears that, when the Writ Petition was taken up for hearing, the then Special Government Pleader appearing for the Forest Range Officer, Tambaram, on instructions from the then Forest Range Officer submitted that, if the writ petitioner comes forward to pay expenses for cutting, removing and transporting the trees grown by the Forest Department, and handover the trees to the Forest Department and pay other charges to the respondent, no objection certificate will be issued to the writ petitioner within a period of two weeks. In the light of the said

submission, the Writ Petition was disposed of, subject to the writ petitioner paying the expenses with a direction to the Forest Department to issue NOC. Thus, the Writ Petition came to be disposed of, by order, dated 28.03.2008. Immediately thereafter, the present Forest Range Officer has filed this Review Application, from which, it is seen that, based on the misleading submissions made by the then Forest Range Officer, the order came to be passed, and the said Forest Range Officer has been suspended from service with effect from 29.03.2008, for various charges. Further, it is submitted that the said Forest Range Officer, M.S.Ramadoss, had no jurisdiction to make such submission, and he has suppressed the material facts, and virtually conceded to the request made by the Writ petitioner. Further, it is submitted that the land in question is fully covered by the trees planted by the Forest Department, and in the Government Order, dated 29.09.1969, passed in G.O.Ms.No.2976 of Agriculture Department, several conditions have been laid down. That apart, special conditions have been imposed in the memorandum, dated 07.06.1970, which placed a embargo on the writ petitioner with regard to the manner, in which, the property has to be utilized for a period of five years, and any portion, not required or unutilized by the Society, will revert back to the Forest Department. It is

further seen that the respondent has not utilized even an inch of land since 1969. These facts could not be placed before the Court, when the Writ Petition was heard, and copies of the Government Order, dated 29.09.1969 and the memorandum, dated 07.06.1970, could not be placed on account of illegality committed by the former Forest Range Officer.

4. In the light of the above, it is evidently clear that the order passed in the Writ Petition was based on the submission given by the then Forest Range Officer, who has suppressed the material facts. Therefore, based on such submission, the writ petitioner cannot take advantage and take an order. The proper course, to be adopted, is to argue the Writ Petition on merits, and then, obtain orders from this Court in accordance with law.

5. In the result, the Review Application is allowed, the order passed in W.P.No.6791 of 2008, dated 28.03.2008 is set aside and the matter is restored to the file of this Court to be heard and decided afresh. No costs. Consequently, connected Miscellaneous Petition is closed.

15.03.2016

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Index : yes/no

Note : Office is directed to issue notice to the respondent in the Writ Petition, returnable in eight weeks.

To

Aaron Samuel Hospital Society,
rep. by its Authorized Signatory,
Perungalathur, Chennai - 600 063.

T.S.Sivagnanam, J.

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