

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2016

CORAM

THE HONOURABLE MR.JUSTICE C.S.KARNAN

W.P.No.32898 of 2007

R.Parameswaran ... Petitioner

vs.

1.The District Collector
Kancheepuram District
Kancheepuram

2.The Tahsildar
Chenglepet Taluk
Kancheepuram District ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for a Writ of Mandamus to direct the second respondent herein to forthwith take appropriate action on the directions of the first respondent herein in O.Mu.16252/2007-B.1, dated 12.05.2007.

For Petitioner : Mr.R.Parameshwaran

For Respondents : Mr.M.S.Ramesh, A.G.P.

सत्यमेव जयते

ORDER

Reserved on : 24.09.2014

Pronounced on : 06.01.2016

The prayer in the writ petition is for issuance of a writ of mandamus to direct the second respondent herein to take appropriate action on the petitioner's representations, dated 05.02.2007 and 27.03.2007, based on the order, dated 12.05.2007, passed by the first respondent herein.

2. The short facts of the case are as follows:

According to the petitioner, he owned properties in Survey Nos.56/2, 56/9, 57/1 and 57/2 of Nallambakkam Village. Besides, he is in possession of the poramboke land in Survey No.55 in the same village. His ancestors had been in possession of the land in Survey No.55 for generations together without any interference from any source whatsoever. He has put up a fencing and carrying on agricultural activities therein.

3. The petitioner has further submitted that he has applied for Patta for the said land, in Survey No.55, on 14.06.2001 and 25.04.2004, and enquiry for issuance of Patta has been pending before the first respondent. In the meantime, he has been assessed to B-Memo and Chitta also. Furthermore, he has been paying mandatory taxes without any default. When such being so, a leather tannery functioning in the name and style of J & J Leather Enterprises has been established in the land in Survey No.56/7. The said Industry has been functioning without adhering to the norms prescribed by the Tamil Nadu Pollution Control Board. Since the discharge of the untreated effluent had affected the lands surrounding the said Industry, he along with neighboring land owners made representations to the first respondent, Tamil Nadu Pollution Control Board, Human Rights Commission and all the local authorities.

4. Further, the petitioner has submitted that the owners of the said Industry, aggrieved by the said representations, employed hirelings to pull down the fencing erected by the petitioner, encroached his land and put up a compound wall. Aggrieved by the said encroachment, the petitioner made representations, dated 05.02.2007 and 27.03.2007, to the first respondent, to take steps to remove the encroachment made on his land. The first respondent, after verifying the veracity of the petitioner's case, had passed an order, dated 12.05.2007, and directed the second respondent to take appropriate action on the petitioner's representations and to remove the encroachment made on the petitioner's land by the said Industry. Though the second respondent received the said order, dated 12.05.2007, he has not acted upon the same and has not taken any step whatsoever to remove the illegal encroachment. Therefore, he has filed this writ petition seeking the relief as stated above.

5. On 24.09.2014, when the matter came up for hearing, Mr.T.Gowtham, learned counsel, who was on record for the petitioner, has submitted that he is no longer associated with the present case in any capacity as the petitioner got back the case bundle from him during 2011 and to that effect he has also filed a memo of withdrawal of appearance before the Registry on 17.09.2014.

6. The learned Additional Government Pleader appearing for the respondents has submitted that the petitioner had sent a representation to the first respondent seeking removal of encroachment made on his land by the leather Industry. The land, over which the Industry is running, has been classified as poramboke land. Though the first respondent has forwarded the petitioner's representation to the second respondent to take necessary action, he has not given any specific direction to dispose the petitioner's representation within the stipulated period and it is an administrative order. If any delay or insufficiency of service has occurred on the part of the second respondent, it is open to the petitioner to make additional representation to the first respondent to direct the second respondent to dispose of his representation at the earliest. Hence, the learned Additional Government Pleader has prayed for dismissal of the writ petition.

7. On considering the facts and circumstances of the case, arguments advanced by the learned Additional Government Pleader and on perusing the typed set of papers, this Court is not inclined to give such a direction as prayed for by the petitioner. If any delay has occurred on the part of the second respondent in taking action on the petitioner's representation, it is open to the petitioner to approach the administrative appellate authority. In such circumstances, the writ petition does not generate sufficient force to allow it and the same is, therefore, liable to be dismissed.

8. In the result, the writ petition fails and it is dismissed. No costs.

-sd/-

ASSISTANT REGISTRAR

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Sub-Assistant Registrar

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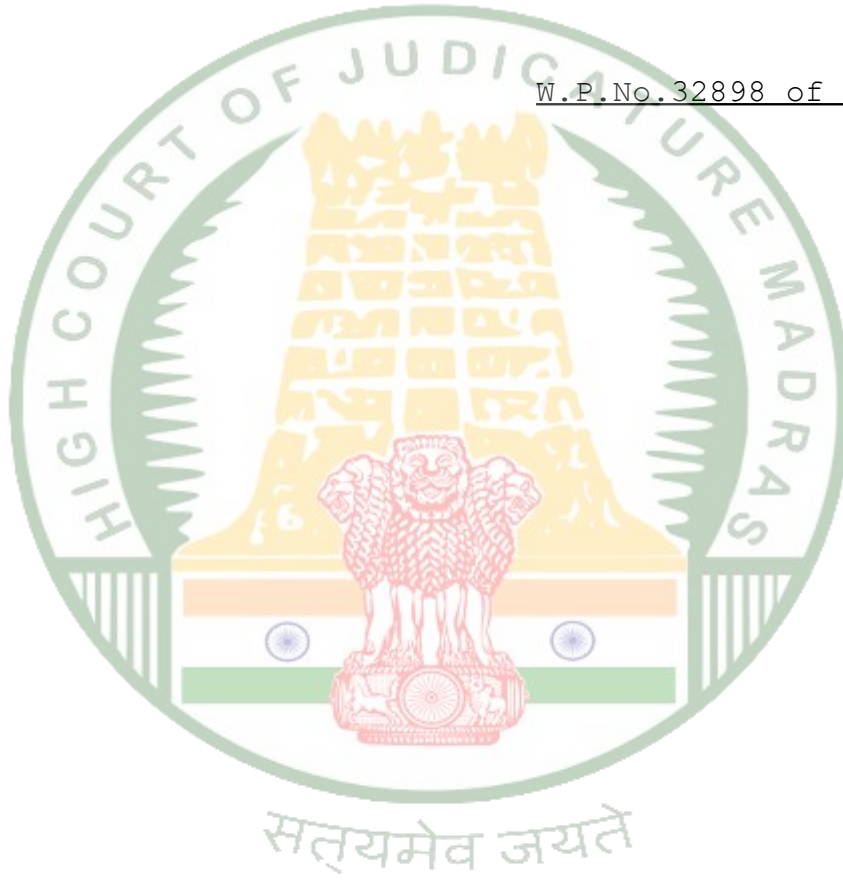
1. The District Collector,
Kancheepuram District,
Kancheepuram.

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2.The Tahsildar,
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