

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2016

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

W.P.No.34406 of 2016
and
W.M.P.No.29640 of 2016

P.Moorthy Raman

.. Petitioner

Versus

- 1.The Collector,
Thiruvallur District,
Thiruvallur.
- 2.The Inspector General of Registration,
Santhome High Road, Santhome, Chennai.
- 3.The Superintendent of Police,
Thiruvallur District, Thiruvallur.
- 4.The Tahsildar,
Ponneri Taluk, Thiruvallur District,
Thiruvallur.
- 5.The Sub Registrar,
Ponneri Taluk, Thiruvallur District,
Thiruvallur.

.. Respondents

Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus directing the respondents 1 to 4 for demarcation of all that piece and parcel of land 1.10 acres in No.48, Neithavayal Village and Patta No.453 in Survey No.426-2A admeasuring an extent of acre 11.52 in Sub Registration District of Ponneri. In this centrally located lands admeasuring an extent of acre 0.52 bounded on the North of lands of Singara Mudali, South of Sarangabani land; West of lands of Sengalvaraya Mudali and East of lands of Perumal. Further to this an extent of 0.24 centrally located lands bounded on the North of bank of the lake; South of Sarangabani land; West of lands of Sengalvaraya Mudali and East of S.No.426-2A. Further to this in S.No.426-2B admeasuring an extent of acre 0.34 bounded on the North of bank of the lake; South of Sarangabani's land; West and East of lands Varadhan situated within the Sub Registration District of Ponneri and Registration District of North Chennai of the petitioner in

accordance with law within a time to be stipulated by this Court.

For Petitioner :: Mr.S.Sivashankar

For Respondents:: Mr.S.V.Durai Solaimalai,
Special Government Pleader

ORDER

The prayer in this writ petition is for issuance of a Writ of Mandamus directing the respondents 1 to 4 to demarcate the land comprised in Survey No. 426-2A measuring 1.10 acres. The petitioner has not only confined his prayer for demarcation of the lands in Survey No.426-2A alone, he sought for an additional prayer to demarcate the land measuring an extent of Survey No. 426-2B as well. Thus, the petitioner has sought for multiple prayer in a single writ petition without filing separate writ petitions. Such a prayer has been made by the petitioner purportedly on the ground that the those additional prayers are consequent prayers or ancillary to each other. The prayers are couched in such a manner that they cannot be adjudicated in a single writ petition.

2. A reading of the prayer sought for in the writ petition and the affidavit filed in support of the writ petition would make the position very clear that the petitioner has not sought for a single relief or the relief sought for are not identical with each other. On the other hand, in the affidavit filed in support of the writ petition, in page No.4, para No.11, the petitioner has stated that he has given a complaint to the third respondent police to complaining bogus entries relating to the revenue records in respect of certain lands at the instance of the respondents 17 to 27 in respondent of Plot Nos. 162, 164, 164-A, 164-B and 166 said to have been situate in the middle of his property. At any rate, in a single writ petition, the grievance sought to be ventilated by the petitioner cannot be adjudicated. The petitioner has to file separate writ petitions by giving specific and clear reason for seeking prayer in the writ petition, which is absent in the present writ petition.

3. During the course of argument in the writ petition, the learned counsel for the petitioner has stated that the petitioner has given a representation to the respondents on 22.01.2013 and the respondents may be directed to consider it and to pass orders thereon. It is seen that the representation dated 22.01.2013 given to various authorities is also not confined to only one such property or it has got any relevance to the relief sought for in this writ petition. A mere direction to the respondents to consider the representation of

the petitioner would only result in renewing a stale or dead claim. This was the ratio laid down by the Division Bench of this Court in which I was also a party in the case in the case of (M. Ingaci vs. The Commissioner, Devakottai Municipality, Sivagangai District) 2010 2 Law Weekly 785, wherein the Division Bench of this Court held that there are several instances where unscrupulous petitioners have misused the direction issued to "consider". It was further held that there are large-scale misuse of the orders "to consider". The Division Bench also relied on para Nos. 18 to 210 of the decision of the Honourable Supreme Court reported in the case of A.P. SRTC vs. G. Srinivas Reddy (2006) 3 SCC 674 = 2006, 3 Law Weekly 170, wherein in Para Nos. 18 to 20, it was held as under:-

"18. We may also note that sometimes the High Court dispose of the matter merely with a direction to the authority to 'consider' the matter without examining the issue raised even though the facts necessary to decide the correctness of the order are available. Neither pressure of work nor the complexity of the issue can be a reason for the court to avoid deciding the issue which requires to be decided, and disposing of the matter with a direction to 'consider' the matter afresh. Be that as it may.

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'.

20. Therefore, while disposing of the writ petition with a direction 'to consider', there is a need for the High Court to make the direction clear and specific. The order should clearly indicate whether the High Court is recording any finding about the entitlement of the petitioner to the relief or whether the petition is being disposed of without examining the claim on merits. The court should also normally fix a time-frame for consideration and decision. If no time frame is fixed and if the authority does not decide the matter, the direction of the court becomes virtually infructuous as the aggrieved petitioner will have to come again to court with a fresh writ petition or file an application for fixing time for deciding the matter."

4. Thus, it is evident from the decision of the Honourable Supreme Court that mere direction to consider one's representation will result in adverse consequences and it will give rise to renewing a stale, untenable or dead claim. It is also evident that there is no straight-jacket formula to be adopted by the Court in simply issuing a direction to consider one's representation without examining the consequences if such a direction is issued. In this case also, the direction as sought for by the petitioner, if issued, will result in adverse and serious consequences whereby the respondents will be forced to discharge their statutory duty, which they are not bound to do at the instance of the petitioner.

5. For all the above reasons, I am not inclined to grant the relief sought for in this writ petition. Accordingly, the writ petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

-Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The Collector,
Thiruvallur District,
Thiruvallur.

2.The Inspector General of Registration,
Santhome High Road, Santhome, Chennai.

3.The Superintendent of Police,
Thiruvallur District, Thiruvallur.

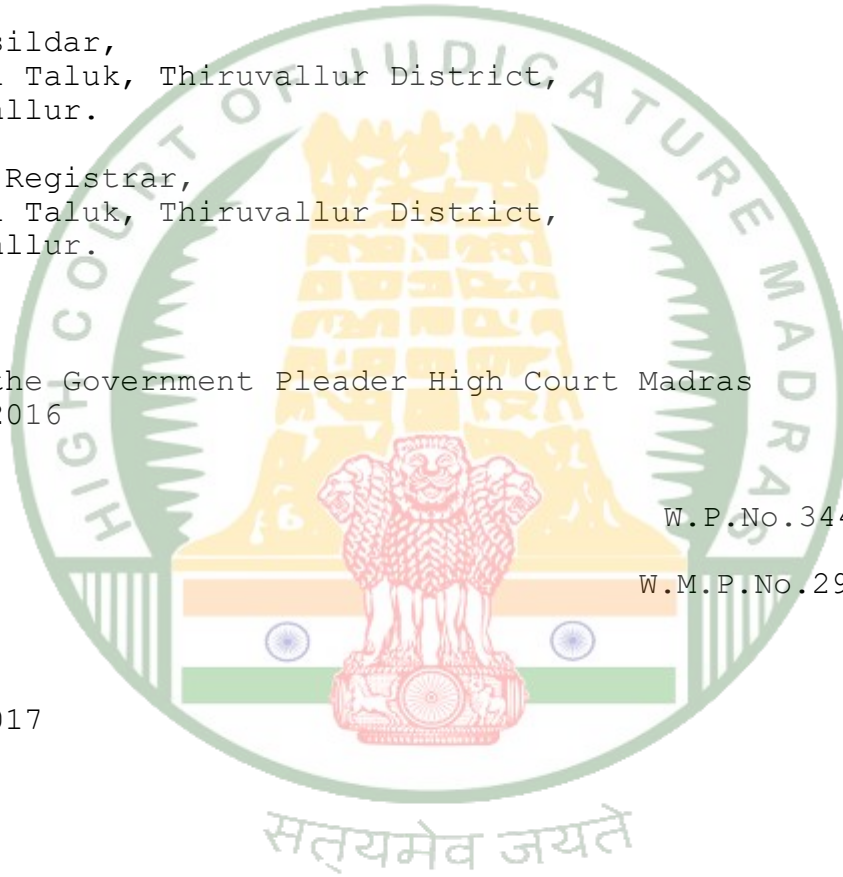
4.The Tahsildar,
Ponneri Taluk, Thiruvallur District,
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5.The Sub Registrar,
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+1 cc to the Government Pleader High Court Madras
sr 56601/2016

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