

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.3576 of 2016

K.Maiyyan

... Petitioner

Vs.

1. Secretary to Government,
Rural Development & Local
Administration Department,
Fort St. George,
Madras - 9.
2. The Commissioner Chennai Corporation,
Chennai - 3.
3. Director of Vigilance &
Anti Corruption,
Chennai.
4. Mr.Tamizh

.... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue writ of mandamus to direct the respondents 1 to 3 to initiate necessary departmental action against the fourth respondent for his misconduct under the Government Servant Conduct Rules and under other relevant Disciplinary Rules and Regulations;

(a) for effecting unauthorised changes in the public records, by entering false entries in the Revenue Records of Chennai Corporation, showing some 3rd parties as Assesseees for the purpose of property tax assessment in respect of Flat A-22, Yamuna Homes Parameswari Nagar, 4th street, Adyar, Chennai - 600 020, contrary to the orders of the Hon'ble High Court in O.A.No.226/2002 in C.S.No.209/2002, dated 16.04.2002 ; order dated 13.02.2003 in Cont.P.605 of 2002; contrary to counter affidavit filed by the Chennai Corporation in W.P.No.11411 of 2010 and ignoring E.B. Records and letters/receipts issued by Yamuna Homes Flat owners Association in his favour;

(b) for ignoring the orders of the Hon'ble High Court in O.A.No.226 of 2002 in C.S.No.209 of 2002 and the order dated 13.02.2003 in Cont.P.No.605/2002;

(c) for declaring to make genuine property tax assessment in the name of the occupier namely in the name of the petitioner as claimed by the Chennai Corporation in the counter affidavit filed in W.P.No.11411 of 2010.

(d) for furnishing false and incorrect particulars to the petitioner by misusing his official position by way of replies under the RTI Act and by way of letters with respect to name transfer for property tax assessment in respect of Flat A-22 Yamuna Homes Parameswari Nagar, 4th street, Adyar, Chennai - 20, by considering his representation dated 04.01.2016 in accordance with law.

For Petitioner : Mr.P.Shanmugham

For R1 & R3 : Mr.R.Vijayakumar,
Additional Government Pleader

ORDER

By way of filing this writ petition, the petitioner seeks a direction to the respondents 1 to 3 to initiate necessary departmental action against the fourth respondent - Tamizh, who is working as Assistant Revenue Officer, Chennai Corporation, for his misconduct under the Government Servant Conduct Rules and under other relevant Disciplinary Rules and Regulations.

2. Learned counsel appearing for the petitioner submitted that the petitioner has been in possession of Flat-A22 of Yamuna Homes, Parameswari Nagar, 4th street, Adyar, Chennai - 20, since 2001. However, in the year 2002, proprietrix of Yamuna Homes Mrs.Vimala Dharmalingam and her husband attempted to interfere with his physical possession of the said flat and then started to alienate the same to some third parties, therefore, the petitioner has filed C.S.No.209 of 2002 before this Court for recovery of money illegally collected from the third parties in respect of the said Flat A-22 and for permanent injunction not to interfere/alienate with the suit flats, including the Flat A-22. This Court, by order dated 16.04.2002 passed in O.A.No.226 of 2002, granted an order of interim injunction.

3. In such circumstances, he pleaded, the fourth respondent in collusion with some third parties without any registered title document and without taking note of the interim injunction granted by this Court as stated above, had illegally effected changes in the revenue records of Chennai Corporation showing some third parties as Assessee. Therefore, opposing the

said illegal act of the fourth respondent, though the petitioner has made several representations, the same were not disposed of, hence, on its non-consideration, he filed a writ petition No.10247 of 2012 and this Court, by order dated 17.04.2012, directed the Chennai Corporation to consider his representation for effecting changes in the revenue records. However, even after the orders passed by this Court, the fourth respondent deliberately avoided to enter his name as Assessee in respect of Flat A-22. Such a strange attitude of the fourth respondent is nothing but a clear violation of the Government Servant Conduct Rules, he pleaded, hence, he prayed for a direction to the respondents as stated supra.

4. Learned Additional Government Pleader appearing for the respondents 1 and 3 has brought to the notice of this Court a proceeding dated 27.01.2016 of the Director, DVAC, Chennai -28, addressed to the petitioner, whereby it is seen that the Director, DVAC, Chennai, by referring to the representation dated 04.01.2016 of the petitioner, returned the petition by observing that the Institution of Ombudsman has been established to cause enquiries into the allegations of corruption/maladministration against public servants coming under the Local Bodies. Therefore, by citing the said proceeding, he submitted that the petitioner has to approach only the Tamil Nadu Local Bodies Ombudsman for disposal of complaints by making representation in the prescribed format. He has also further brought to the notice of this Court Section 12 of the Tamil Nadu Local Bodies Ombudsman (Act 27 of 2014), Act 2014, which reads as under:

"12(1) The Ombudsman may consider and dispose of complaints other than those involving criminal offences, in the following manner, namely:-

(a) Order the recovery of loss caused to the local body from the person responsible;

(b) order the recovery of loss from the accused failing which order for recovery of the amount as if it were an arrear of land revenue under the Tamil Nadu Revenue Recovery Act, 1864;

(c) refer the complaint to the appropriate authority to take disciplinary action for wilful negligence or dereliction of duty of any officer or employee of the local body;

(d) order other necessary remedial measures considering the facts and circumstances of the case;

(e) where the Ombudsman finds that the procedure or practice regarding the administration of local body relating to the measures for avoiding the recurrence of such complaint.

(2) The Ombudsman shall submit an annual report regarding the performance of his/her functions under this Act to the Government and the Government shall lay it before the Legislative Assembly with an explanatory memorandum."

5. From the above said provision, it is clear that the Tamil Nadu Local Bodies Ombudsman (Act 27 of 2014) Act, 2014, had created the institution of Ombudsman to make enquiries into the allegations of corruption for maladministration against the public servants coming under the Local Bodies. In such circumstances, as stated above, the petitioner seeks a direction to the respondents 1 to 3 to initiate necessary departmental action against the fourth respondent, who is working as Assistant Revenue Officer in Chennai Corporation, coming under the Tamil Nadu Local Bodies. In such view of the matter, this Court is not inclined to entertain the prayer made by the petitioner. However, this Court is inclined to direct the petitioner to approach the Institution of Ombudsman by taking note of yet another fact that the original petition dated 04.01.2016 of the petitioner addressed to the Director, DVAC, Chennai / third respondent herein, to register the case on the basis of the complaint given by him, was returned to him together with a copy of the Act, Rules and Proforma etc. Accordingly, a direction is issued to the petitioner to approach the Institution of Ombudsman by making representation in a prescribed format as stated by the Director in his proceedings dated 27.01.2006, if he is so advised. On receipt of such representation, it is for the Institution of Ombudsman to consider the same in accordance with law. With this direction, the writ petition stands disposed of. No Costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

rkm

To

1. The Secretary to Government,
Rural Development & Local
Administration Department,
Fort St. George,
Madras - 9.
2. The Commissioner Chennai Corporation,
Chennai - 3.
3. The Director of Vigilance &
Anti Corruption,
Chennai.

+lcc to Mr. Shanmuga Associates, Advocate, S.R.No.9679
+lcc to the Government Pleader, S.R.No.9609

W.P.No.3576 of 2016

EV(CO)
CA(10/03/2016)



WEB COPY