



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.10.2016

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU
and
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P(MD)No.2253 of 2015

MITHUN CHAKRAVARTHY
S/O. AMMAVASAI,
D.NO.9-7-4 KAMATCHI AMMAN KOVIL STREET
P.C.PATTY THENI DISTRICT. .. Petitioner

Vs.

- 1 THE SECRETARY TO GOVERNMENT
MUNICIPAL ADMINISTRATION & WATER SUPPLY
DEPARTMENT GOVERNMENT OF TAMIL NADU FORT
ST. GEORGE CHENNAI 600 009.
- 2 THE DIRECTOR OF TOWN PANCHAYAT
KURALAGAM CHENNAI 600104.
- 3 THE EXECUTIVE OFFICER
P.C. PATTY TOWN PANCHAYAT THENI DISTRICT.
- 4 MR.P. BALASUBRAMANIAN
CHAIRMAN P.C.PATTY TOWN PANCHAYAT WARD NO.
3 KUMULI PERIYAKULAM ROAD, P.C. PATTY
THENI. . Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 1st respondent to take action on the complaints of the petitioner dated 22.11.2014 16.12.14 and 19.01.2015 against respondents 3 and 4 for collusive statutory violation and evasion of property tax by 4th respondent to the public exchequer.

For Petitioner : M/s.C.Jegannathan
For Respondents : Mr.Aayiram K.Selvakumar for R1 & R2
Mr.T.S.Mohammed Mohideen for R3
Addl. Government Pleader
Mr.R.Murali for R4

**ORDER**

(Order of the Court was made by S.NAGAMUTHU, J.)

The petitioner has come up with this litigation under the guise of public interest litigation seeking a direction to the 1st respondent to take action on the complaints of the petitioner dated 22.11.2014, 16.12.14 and 19.01.2015 against respondents 3 and 4 on the allegation that the respondents 2 and 3 have colluded with the 4th respondent, permitted the 4th respondent to commit statutory violation in the matter of property tax, thereby causing loss to the public exchequer.

2. We have heard the learned counsel for the petitioner and the learned Additional Government Pleader, Government Advocate and the counsel for the respondents. We have also perused the records carefully.

3. According to the petitioner, the 4th respondent obtained building plan approval for the year 2011 to construct a building on his property in an extent of 747 sq.ft. But he constructed the building, in violation of the building plan obtained, to an extent of 2800 sq. ft. and construction was made in the year 2011 itself. In the election held for the local body in the year 2011, the 4th respondent mentioned, in the affidavit filed in support of the nomination paper, that the area of the building is 2800 and then only the petitioner came to know that the 4th respondent has violated the building plan approval. Thereafter, he got information under the Right to Information Act and made complaint to the respondents 1 to 3 for taking necessary action. According to him, since no action was taken, he has come up with this writ petition.

4. It is submitted by the learned Additional Government Pleader for the respondents that the petitioner has not come forward with clean hands. In the election held for the local body in the year 2011, the petitioner's father Mr. Amavasai contested against the 4th respondent and lost in the election. It was because of the election motive, the petitioner has come up with this writ petition to settle the personal score and not with any public interest.

5. The learned Additional Government Pleader for the respondents would further bring to our notice that the petitioner has filed yet another writ petition in W.P.(MD)No.19928/2014 before this Court under the guise of public interest litigation against the Vice Chairman of the Panchayat, who won the election on the allegation that he had also violated the building plan approval given for a different property. The learned counsel for the respondents would further submit that the 4th respondent did not pay tax properly and now, he has agreed to pay the entire tax with penalty.



6. We have considered the above submissions.

7. The petitioner claims to be an Advocate and the son of Mr. Ammavasai, who lost in the election in which he contested against the 4th respondent. From the way, in which, he has come up with this petition and another writ petition against the Vice Chairman of the Panchayat, it is crystal clear that he has not come forward with clean hands with any public interest. He has come to this Court only to settle his personal score on account of the election motive. Thus, in our considered view, the petitioner has abused the process of Court and he has not come forward with any public interest. Therefore, we are unable to grant the relief as prayed for. Further, as stated by the learned Additional Government Pleader, the 4th respondent has agreed to pay the entire arrears of tax including the penalty.

8. In view of all the above, this petition is dismissed. While so doing, in our considered view, for having abused the process of this Court and for having wasted the time of this Court, we deem it appropriate to impose cost on the petitioner. We afforded an opportunity to the learned counsel for the petitioner to argue on the question of costs. The learned counsel for the petitioner submitted that the petitioner would pay a sum of Rs.5,000/- as costs.

9. In our considered view, directing the petitioner to pay a sum of Rs.25,000/- as cost would meet the ends of justice. Accordingly, the writ petition is dismissed and the petitioner is directed to pay cost of Rs.25,000/- (Rupees twenty five thousand only)

10. The learned counsel for the 4th respondent submitted that the said cost may be utilised for some public purpose. Therefore, we direct the petitioner to pay the said amount of cost to the credit of the Secretary, Women Lawyers Association, Madurai Bench, with a direction to the Secretary to utilise the said amount for running the Creche, which was inaugurated by the Hon'ble Chief Justice of Madras High Court on 04.10.2016. As requested by the learned counsel for the petitioner, two weeks time is granted for paying the cost. Consequently connected Miscellaneous Petition is closed.

11. The Registry is directed to list this matter on 21.10.2016 'for reporting compliance'.

Sd/-

Assistant Registrar (CO)

/True Copy/



ORDER MADE IN
W.P (MD) No.2253 of 2015
05.10.2016