

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.01.2017

CORAM:

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

WRIT PETITION No.976 of 2017

Ponsingh

... Petitioner

vs.

1. The Principal Secretary to Government,
Revenue Department,
Fort St. George,
Chennai 600 009.
2. The Principal Secretary and the
Commissioner of Land
Administration Department,
Ezhilagam,
Chepauk,
Chennai 600 005.
3. The District Collector,
Thiruvallur District,
Thiruvallur - 602 001.
4. The District Revenue Officer,
Thiruvallur District,
Thiruvallur - 602 001.
5. The Tahsildar,
Ambattur Taluk,
Ambattur,
Chennai 600 053.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus, forbearing the 5th respondent from initiating any action in respect of the land comprised in Survey No.320/2B and 320/2C situate at Padi Village, Ambattur Taluk, Thiruvallur District till appropriate orders are passed granting lease to the petitioner by the 1st and 2nd respondents pursuant to the order passed in W.P.No.43300 of 2016.

For Petitioner : Mr.K.Sridhar

For Respondents : Mr.A.Kumar,
Special Government Pleader

O R D E R

The petitioner has come up with this Writ Petition seeking to forbear the 5th respondent from initiating any action in respect of the land comprised in Survey No.320/2B and 320/2C situate at Padi Village, Ambattur Taluk, Thiruvallur District till appropriate orders are passed granting lease to him by the 1st and 2nd respondents, pursuant to the order passed in W.P.No.43300 of 2016.

2. According to the petitioner, adjoining his land in Survey Nos.1177/1A part and 1176/2A1A part, in T.S.No.62, Korattur Village, Ambattur Taluk, there is a land measuring an extent of 6.50 cents in Survey No.320/2B and 1.0 cent in Survey No.320/2C, totally measuring an extent of 7.50 cents, belonging to the Government. The petitioner's vendor V.M.Chacko had been granted lease in respect of the said 7.50 cents of land, which is situated between his patta land and MTH Road. The said land is the only source of way for ingress and egress to his land. Hence, the petitioner made an application to the 5th respondent and other competent authorities seeking grant of lease of the Government land under the Revenue Board Standing Orders.

3. Pursuant thereto, the 5th respondent conducted field inspection and made a Report by arriving at a land cost for grant of lease. Based on the field inspection Report as well as the recommendation by the 5th respondent, the Revenue Divisional Officer, in turn, forwarded the said Report to the 4th respondent in his proceedings dated 09.07.2013 in Na.Ka.No.2896/2013/A5. Upon perusal of both the reports and communications, the 4th respondent in turn, sent a proposal to the 2nd respondent herein in Na.Ka.No.42305/2002/A1, dated 18.12.2014 and recommended for grant of lease by enclosing the relevant documents including public notice, field inspection report, etc. The grievance of the petitioner is that though the 2nd respondent received the communication and proposal during the third week of December 2014 itself, till date, the 2nd respondent has not passed any order for grant of lease to him.

4. While so, one K.K.Rajendran filed a Writ Petition before this Court in W.P.No.43300 of 2016 seeking to dispossess the petitioner from the property by suppressing all the facts and obtained an order. It is the case of the petitioner that the 5th respondent, being the competent authority under the Act

ought to have followed the procedures stipulated thereon by conducting free and fair enquiry such as issuing notice, receiving explanation and to pass detailed orders under enquiry. But, the 5th respondent has not passed any order till date, despite the petitioner sending a detailed representation dated 02.01.2017. Left with no other alternative, the petitioner is before this Court.

5. Heard the learned counsel on either side and perused the material documents available on record.

6. On a consideration of the facts and circumstances of the case, this Court is of the view that the apprehension of the petitioner is unwarranted, as this Court had earlier passed an order in W.P.No.43300 of 2016, directing the respondents 1 and 2 to consider the proposal for granting of leasehold rights to the petitioner in respect of the land in question. It is seen that the 5th respondent has sent a notice dated 01.12.2016 to the petitioner under Section 7 of the Tamil Nadu Act III, 1905, for which, he has already given a reply. Therefore, at this stage, when the 5th respondent has initiated enquiry under Section 7 of the Act, the apprehension of the petitioner that he will be dispossessed from the property is unwarranted. Hence, this Writ Petition is not maintainable at this stage and is accordingly dismissed as not maintainable. No costs. Consequently, connected W.M.P.No.962 of 2017 is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To:

1. The Principal Secretary to Government,
Revenue Department, सत्यमेव जयते
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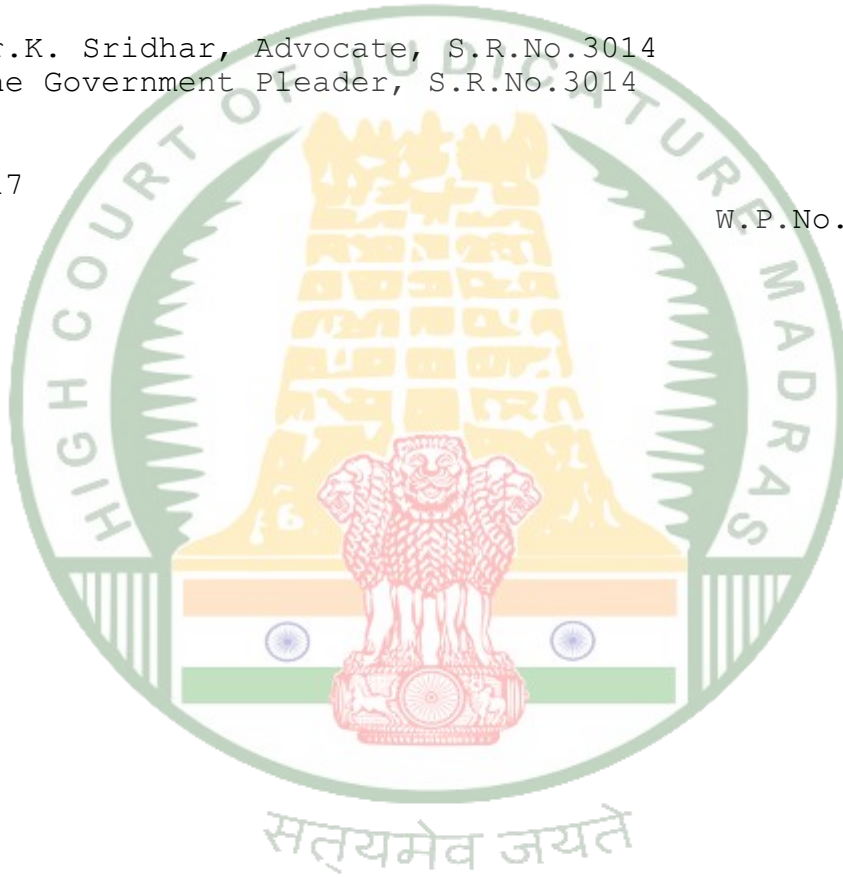
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5. The Tahsildar,
Ambattur Taluk,
Ambattur,
Chennai 600 053.

+1cc to Mr.K. Sridhar, Advocate, S.R.No.3014
+1cc to the Government Pleader, S.R.No.3014

NRI (CO)
EU 01.03.17

W.P.No.976 of 2017



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