



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.01.2017

CORAM :

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition (MD) No.5184 of 2015

Venkatesan @ R.Kathiresan

... Petitioner

Vs.

The Commissioner,
Corporation of Madurai,
Madurai.

... Respondent

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents to implement the Judgment passed by Hon'ble Division Bench in Writ Appeal No.2260 of 2002 in the High Court of Judicature at Madras on 18.4.2011.

For Petitioner

: Mr.R.Thirugnanasambantham

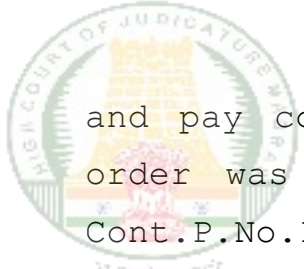
For Respondent

: Mr.J.Gunaseelan Muthiah,
Government Advocate.

ORDER

The present writ petition has been filed seeking for a mandamus directing the respondent to implement the judgment passed by the Division Bench of the Principal Bench of this Court made in W.A.No.2260 of 2002 dated 18.04.2011.

2.It appears that earlier, a writ petition was filed by the writ petitioner along with four others in W.P.No.23739 of 2001 seeking for compensation for the land alleged to have been taken possession by way of acquisition proceedings. The said writ petition was dismissed by the learned single Judge on 03.12.2001 by specifically observing that the Madurai Corporation did not take any steps to acquire the petitioners land. A writ appeal came to be filed by the writ petitioner in W.A.No.2260 of 2002 challenging the said order of the learned single Judge. By an order dated 18.04.2011, the Division Bench disposed of the writ appeal by directing the respondents therein to settle the amount



and pay compensation within eight weeks. Claiming that the said order was not complied with, a contempt petition was filed in Cont.P.No.189 of 2012 wherein an order came to be passed on 31.01.2013 dismissing the contempt petition by observing at paragraphs 3 and 4 as follows:-

"3.In the counter filed by the third respondent, it is stated in paragraph 5 as follows:-

"5.I respectfully submit that the Hon'ble High Court has passed an order on all the respondents to pay the compensation to the appellant. It is submitted that in the suit, a delivery possession given to the petitioner for the disputed property as observed by the learned single Judge that when the respondents are not claiming any right of use in the said land, the petitioners/appellants cannot ask the respondents to pay compensation. Now, at present the said land is under the possession of the Contempt Petitioner based on the delivery order dated 11.03.1998. By suppressing the fact, the Contempt Petition has been filed in this Court against me as well as the Collector for paying the compensation."

4.In view of the above, we see no reason to entertain the contempt petition and the same is dismissed. However, it is open to the petitioner to work out his remedy by approaching the appropriate Forum to establish his title and seek compensation. However, there shall be no order as to costs."

3.After the dismissal of the above said contempt petition, as stated supra, the present writ petition has been filed before this Court seeking for the very same relief of implementing the order passed in W.A.No.2260 of 2002.



4.Learned counsel for the petitioner submitted that when the petitioner has already established his right before the competent civil Court, there is no question of going once again before the Civil Court and establish his title. Therefore, he contended that the respondents should be directed to pay compensation.

5.In my considered view, the approach of the petitioner by filing the present writ petition is not proper, more particularly, when he failed in his attempt in the contempt proceedings filed arising out of the order passed in the writ appeal in W.A.No.2260 of 2002.

6.Needless to say that if the petitioner has any grievance on the observations made in the order passed by the Division Bench, in the above said contempt proceedings, he should have worked out his remedies either by filing a review or challenging the said order by way of an appeal. Instead of doing so, the petitioner has chosen to file the present writ petition which cannot be entertained. Accordingly, I find that the present writ petition is not maintainable and accordingly, the same is dismissed. No costs.

Sd/-
Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To
The Commissioner,
Corporation of Madurai,
Madurai.
+1cc to G.Thirugnana sambantham Advocate in SR.No 104

vs
jsi/skn/cr/31.01.2017/3p-3c