



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.11.2017

CORAM:

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THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P (MD) No.21061 of 2017

and

W.M.P. (MD) No.17310 of 2017

A.Jesuraj @ Chandramohan

... Petitioner

-vs-

1.The Sub-Collector cum The Revenue Divisional Officer,
Kodaikkanal,
Dindigul District.

2.The Tahsildar,
Kodaikkanal Taluk,
Kodaikkanal,
Dindigul District.

3.K.V.M.Jeeva

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the entire records pertaining to the proceedings of the first respondent in Na.Ka.No.141/2017/A5 dated 31.08.2017 and quash the same.

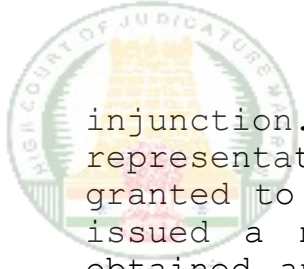
For Petitioner : Mr.M.Pitchai Muthu
For Respondents 1&2 : Mr.M.Alagathevan,
Special Government Pleader

O R D E R

This writ petition has been filed, seeking to quash the proceedings of the first respondent in Na.Ka.No.141/2017/A5 dated 31.08.2017, by which, the petitioner was asked to appear before the 1st respondent for enquiry in respect of cancellation of house patta, on the basis of the representation of the 3rd respondent.

2. Mr.M.Alagathevan, learned Special Government Pleader takes notice for R1 & R2. Notice to R3 is dispensed with, as no adverse order is going to be passed against him in this petition. By consent, this writ petition is taken up for final disposal at the admission stage itself.

3. The case of the petitioner is that he had already instituted a suit in O.S.No.188 of 2014 before the learned District Munsif, Kodaikkanal against R3 and also obtained an order of interim



injunction. The 3rd respondent, on earlier occasion, had submitted a representation to the 2nd respondent for cancellation of patta granted to the petitioner, on the basis of which, the 2nd respondent issued a notice to him, calling for enquiry and the petitioner obtained an order of interim stay against the said notice in W.P. (MD) No.15834 of 2017. While so, the 3rd respondent subsequently approached the 1st respondent with the similar request, pursuant to which, the present notice came to be issued against the petitioner for enquiry, ignoring the fact that stay was already granted in respect of the same issue.

4. Be that as it may, the present impugned order is nothing, but a show cause notice. It is well settled that in the event of violation of fundamental rights or infringement of any legal right either under the Statute or under any other laws and violation of principles of natural justice, an individual may approach this Court, seeking interference of this Court. In the absence of any such ingredients and legal right, it is not appropriate for the petitioner to seek remedy by merely challenging the show cause notice. The course adopted by the petitioner, namely, having not chosen to submit his explanation, in the considered view of this Court, does not have any leg to stand. The Hon'ble Supreme Court in the case of Union of India and another vs. Kunisetty Satyanarayana, reported in (2007) 1 SCT 452, has been pleased to lay down as under:

"It is well settled by a series of decision of this Court that ordinarily no writ lies against a charge sheet or show cause notice vide Executive Engineer, Bihar State Housing Board vs. Ramdish Kumar Singh and others JT 1995 (8) SC 331, Special Director and another vs. Mohd. Ghulam Ghouse and another in 2004 (1) SCT671 (SC), Ulagappa and others vs. Divisional Commissioner, Mysore and others (2001) 10 SCC 639, State of U.P. vs. Brahm Dutt Sharma and another in AIR 1987 SC 943 etc."

5. The Hon'ble Supreme Court in the very same judgment (cited supra) held that in some very rare and exceptional cases, the High Court can set aside the show cause notice, if it is found to be without jurisdiction, or for some other reason, if it is wholly illegal, otherwise the High Court should not interfere. In the absence of any such violation and infringement of rights, there is no scope for this Court to interfere with the show cause notice impugned in this writ petition.

6. Hence, while declining to interfere with the order impugned herein, this writ petition is disposed of, permitting the petitioner to file a detailed objection to the show cause notice within a period of two weeks from the date of receipt of a copy of this order and on such explanation being received, the same shall be considered and appropriate orders be passed thereon within a period of four weeks thereafter after affording an opportunity of hearing



to the petitioner and other interested parties, if any. No costs. Consequently, connected miscellaneous petition is also closed.

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/True Copy/

Sd/-

Assistant Registrar (CSIII)

Sub-Assistant Registrar

To:

1.The Sub-Collector cum The Revenue Divisional Officer,
Kodaikkanal,
Dindigul District.

2.The Tahsildar,
Kodaikkanal Taluk,
Kodaikkanal,
Dindigul District.

+One cc to The Special Government Pleader, SR.No.87606

+One cc to Mr.M.Pitchaimuthu, Advocate, SR.No.87868

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RL/5C/3P/SV/MMS/SAR1/30/11/2017

W.P (MD) No.21061 of 2017

15/11/2017