



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.04.2017

CORAM :

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MR. JUSTICE P.VELMURUGAN

WA (MD) No.579 of 2013
and

M.P. (MD) No.1 of 2013 and 1 of 2014

M/s.Renuga Fire Works Industries
rep. By its Proprietor
M.Chelladurai

...Appellant/2nd Respondent

Versus

1.V.Alagarsamy

...1st Respondent/Petitioner

2.The District Revenue Officer,
Virudhunagar District,
Virudhunagar.

.. 2nd Respondent/1st Respondent

Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 30.04.2013 made in W.P. (MD) NO.3877 of 2013.

Prayer in WP(MD). 3877/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the 1st respondent to cancel the "No objection Certificate" issued to the 2nd respondent to set up a Fire Works Industry with a manufacturing capacity of 197.0 Kgs of Fire Works at a time, in the landed property situated at Survey NO. 506/5, Keelathiruthangal Village, Sivakasi Taluk, Virudhunagar District based on the representation dated 18.02.2013 made by the petitioner to the 1st respondent within a time frame fixed by this Honourable Court and pass such such further or other orders.

For Appellants : Mr.A.V.Arun

For Respondents : Mr.B.Saravanan for R1
Mr.S.Chandrasekar, G.A. For R2

**JUDGMENT**

(Judgment of the Court was delivered by **T. S. SIVAGNANAM, J**)

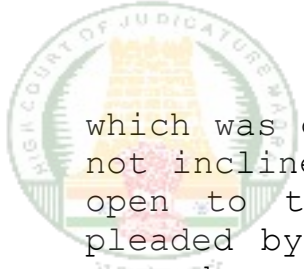
Heard Mr.A.V.Arun, learned counsel for the appellant , Mr.B.Saravanan, learned counsel for the first respondent and Mr.S.Chandrasekaran, learned Government Advocate appearing for the second respondent.

2.With consent of all the parties, the main writ appeal itself is taken up for final hearing.

3.This Writ Appeal is directed against the order passed in W.P.(MD) NO.3877 of 2013 dated 30.04.2013. The first respondent is the writ petitioner and sought for issuance of a writ of mandamus, to direct the District Revenue Officer, Virudhunagar District, to cancel the No Objection Certificate issued to the appellant to set up firework industry by considering his representation. The Court, after hearing the appellant as well as the official respondent viz., the District Revenue Officer, disposed of the writ petition by passing an innocuous order. The operating portion of the order reads as follows:

"9.The parties are given liberty to plead their case before the District Revenue Officer, Virudhunagar District, with regard to their respective right in the property in SurveyNo.506/5, Keelathiruthangal Village, Sivakasi Taluk, Virudhunagar District. The District Revenue Officer is directed to consider the case pleaded by the parties, in the light of the documents and revenue records and take a decision in the matter as expeditiously as possible and in any case, within a period of six months from the date of receipt of a copy of this order."

4.The learned counsel for the appellant submitted that the District Revenue Officer would have no jurisdiction to consider as to whether the claim made by the respondent/writ petitioner is justifiable or not and this legal issue should have been considered by the writ Court. In this regard, the learned counsel referred to the observations made by the Court in para 8 of the order. In para 8 of the order, the Court has recorded the submissions of the writ petitioner and pointed out that it is for the District Revenue Officer to consider the case pleaded by the writ petitioner and the appellant/second respondent as to whether the appellant is having any right over the property in question. Thus, we find that no prejudice has been caused to the appellant on account of the said direction, when it appears to be an admitted fact that in respect of a portion of the land, the patta



which was granted to the appellant was cancelled. However, we are not inclined to make any observation in this regard and we left it open to the District Revenue Officer to consider the case as pleaded by the parties in the light of the documents and revenue records and take a decision in the matter as directed by the writ Court. Such decision will be taken by the second respondent, within a period of three months from the date of receipt of a copy of this order.

5. With the above direction, this writ appeal is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

The District Revenue Officer,
Virudhunagar District,
Virudhunagar.

+1cc to Mr.A.V.Arun, Advocate in SR.No:50026
+1cc to Mr.B.Saravanan, Advocate in SR.No:50490
+1 cc to Special Government Pleader in SR.No:50406

ARUL
AE/SV MMS/17.04.2017/3P/5C

Judgment in

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and
M.P.(MD)No.1 of 2013 and 1 of 2014
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