

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2018

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A.No.397 of 2017
and
C.M.P.No.6347 of 2017

M.Jothi

...Appellant/Petitioner

Vs

1.The Cantonment Board
Represented by its President
Defence Office, Secretariat
Fort St.George, Chennai 9.

2.The Defence Estate Officer
Defence Estate Office
Madras Circle
306, Anna Salai, Teynampet
Chennai 18.

3.The Chief Executive Officer
St.Thomas Mount cum Pallavaram
Office of the Cantonment Board
St.Thomas Mount, Chennai 16.

...Respondents/Respondents

Prayer:- Writ Appeal filed under Clause 15 of Letters Patent Act, to set aside the order passed by this Court in W.P.No.26121 of 2014 dated 18.11.2016.

WP.26121 of 2014: This petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents herein or their sub-ordinates from in any manner interfering in the possession or evicting the petitioner from the property measuring an extent of 17 cents in GLRS No. 388/730 of St. Mount Road cum Pallavaram Cantonment St. Thomas Mount Chennai without following due process of law consequently directing the respondents to issue allotment/house patta in favour of the petitioner.

For Appellant : Mr.M.Gnanasekar
for Mr.P.Gopiraja

For R2 : Mr.A.Kumaraguru

For R3 : Mr.B.Mohan

R1 : Notice Served -NA

JUDGMENT

(Judgment of the Court was delivered by K.K.SASIDHARAN, J.)

The learned counsel for the appellant made an endorsement indicating that he is withdrawing the appeal with liberty to approach the civil court. The plea of withdrawal is opposed by the learned counsel for the respondents. The writ petition was filed by the appellant. During the currency of this appeal, the appellant was advised to file a civil suit instead of prosecuting the appeal. This Court cannot say that the appellant is not entitled to file a civil suit. It is always open to the Civil Court to appreciate the contentions taken by the appellant in the Civil Suit and dispose of the matter on merits. We therefore, overrule the objection raised by the learned counsel for the third respondent with regard to the plea made by the appellant to withdraw the appeal.

The intra court appeal is dismissed as withdrawn with liberty to approach the Civil Court. However, we make it clear that the expression "liberty" should not be construed to be an expression of opinion on the merits of the matter. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

सत्यमेव जयते
Assistant Registrar

//True copy//

Sub Assistant Registrar

gms

To
1.The Cantonment Board
Represented by its President
Defence Office, Secretariat
Fort St.George, Chennai 9.

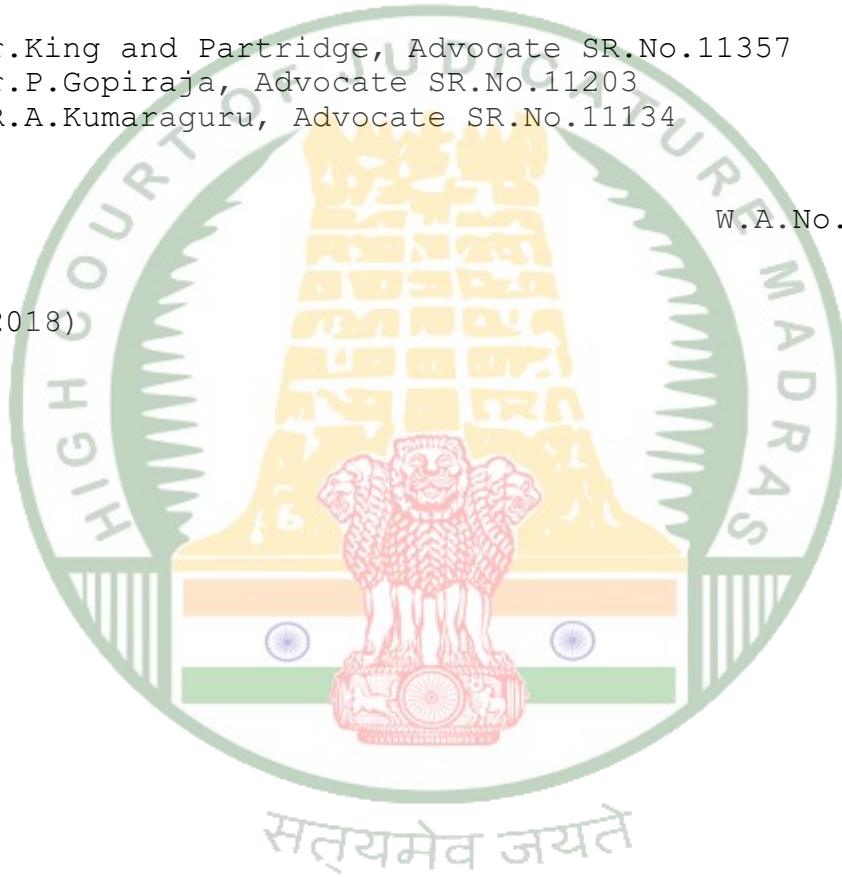
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St.Thomas Mount, Chennai 16.

+1cc to Mr.King and Partridge, Advocate SR.No.11357
+1cc to Mr.P.Gopiraja, Advocate SR.No.11203
+1cc to MR.A.Kumaraguru, Advocate SR.No.11134

W.A.No.397 of 2017

SR(CO)
GN(07/03/2018)



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