

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.04.2018

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

WP.No.5892 of 2018 and WMP.7235 of 2018

M/s.Sun Pharmaceutical Industries Ltd,  
Registered Address at  
SPARC, Tandalja, Baroda-390012, Gujarat  
And Corporate Office situated at  
Sun House, Plot No.201 B/1, Western Express Highway,  
Goregaon (E), Mumbai-400063.  
Rep.by its Authorised Signatory  
Mr.Jothy Sankar

Petitioner

Versus

- 1.The Government of Tamil Nadu  
rep.by its Secretary,  
Revenue Department,  
Fort St.George, Chennai-9.
- 2.The Government of Tamil Nadu  
rep.by its Secretary,  
Public Works Department,  
Revenue Department,  
Fort St.George, Chennai-9.
- 3.The Collector,  
Kancheepuram District  
Thaiyar Kallam,  
Kancheepuram-631 501.
- 4.The Thasildhar,  
Alandur Taluk.
- 5.The Assistant Engineer,  
Public Works Department (WRD)  
Adyar Irrigation Section  
St.Thomas Mount  
Chennai-600 016.

.. Respondents

PRAYER:- Writ petition filed under Article 226 of the Constitution of India prays to issue a Writ of Declaration declaring the action of the 5<sup>th</sup> respondent in issuing the notice dated 23.02.2018 which was affixed on 05.03.2018 is premature and is in violation of the spirit of the order passed by this Court in W.P.No.33536/2017 dated 22.12.2017 and issue a writ of prohibition forbearing the respondents especially the 5<sup>th</sup> respondent from demolishing the wall of the petitioner with a view of interfering and disturbing the possession of the petitioner's property measuring an extent of 27.32 acres in Gerugambakkam Village bearing Patta bearing no.445 dated 21.05.2007 and declare the action of the 5<sup>th</sup> respondent where the petitioner is having a godown as illegal, in excess of jurisdiction and arbitrayd.

For Petitioner : Mr.S.Venkatesan  
For Respondents : Mr.A.N.Thambidurai  
Special Government Pleader

ORDER

[Order of the Court was made by M.SATHYANARAYANAN,J.,]

By consent, the writ petition is taken up for final disposal.

2. The petitioner claims that he owns various properties in the State of Tamil Nadu and one among the properties is the property admeasuring to an extent of 27.32 acres in a Gerugambakkam Village, Kancheepuram District vide Patta No.445 and the said property was acquired through Company on account of Tamil Nadu Dadha Pharmaceutical Limited. The petitioner on an earlier occasion filed WP.No.33536/2017 against the respondents herein praying for issuance of writ of declaration declaring that the action of the respondents 3 and 4 therein in demolishing the wall of the petitioner with a view to interfere with their peaceful possession of the said property is illegal and in excess of jurisdiction, arbitrary and forbearing them from in any manner disturbing their possession.

3. This Court vide order dated 22.12.2017 has disposed of the writ petition and it is relevant to extract Paragraph No.6 and 7 of the said order:

"6.Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, directs the respondents 3 and 4 as well as the Assistant Engineer, Public Works Department (WRD), Adyar Irrigation Section, St. Thomas Mount, Chennai - 16, to follow the due process of law in the event of any

encroachments said to have been committed by the petitioner and till such time, shall defer further decisions to dispossess the petitioner from the land in question. It is also open to the petitioner to submit a detailed representation to the respondents 3 and 4 as well as to the Assistant Engineer, Public Works Department (WRD), Adyar Irrigation Section, St. Thomas Mount, Chennai - 16 as to their right, title and possession in respect of the said land by enclosing relevant and authenticated documents within a period of four weeks from the date of receipt of a copy of this order and upon receipt of the same, the respondents 3 and 4 shall consider and dispose of the representation to be submitted by the petitioner on merits and in accordance with law within a further period of eight weeks thereafter and communicate the decision taken, to the petitioner.

7. The writ petition stands disposed of with the above direction. No costs. Consequently, the connected Miscellaneous petitions are also closed."

4. The petitioner in pursuant to the liberty granted by this Court in the above cited order, has submitted a response on 21.02.2018 by enclosing relevant documents. The learned counsel appearing for the petitioner would submit that the response was sent on 21.02.2018 and within two days, the impugned notice came to be issued on 23.02.2018 under Form-II read with Rule 6(1) of the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 and the said notice is therefore illegal for the reason that in the light of the liberty granted in the earlier order passed by this Court, it is obligatory on the part of the petitioner to submit his representation and it is also obligatory on the part of the respondents to dispose of the said representation on merits and in accordance with law before issuing notice and therefore, prays for interference.

5. Per contra, Mr.A.N.Thambidurai, learned Special Government Pleader would submit that the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 and the rules have been scrupulously complied with before issuing impugned notice. Further, since the petitioner is guilty of encroaching upon the water body, such action has been rightly taken.

6. This Court has carefully considered the rival submissions and also perused the materials placed before it.

7. This Court, while disposing of WP.No.33536 of 2017 vide order dated 22.12.2017 has granted opportunity to the petitioner, to submit a detailed representation to the respondents 3 and 4 as well as Public Works Department (WRD), St.Thomas Mount, Chennai-600 016 as to the right, title and

possession by enclosing relevant and authenticated document within a period of four weeks with a further direction to consider and dispose of the same in accordance with law within a further period of eight weeks. Accordingly, the petitioner has submitted a response on 21.02.2018 which was despatched on 24.02.2018. In the interregnum, the 5<sup>th</sup> respondent has issued the impugned order, for which also the petitioner has already submitted a detailed response on 06.03.2018. This Court taking into consideration the above facts and circumstances and without going into the merits of the claim projected by the petitioner, directs the 5<sup>th</sup> respondent to consider and dispose of the petitioner's representation dated 06.03.2018 in accordance with law and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner and till such time, the 5<sup>th</sup> respondent shall defer further decision in terms of the impugned notice dated 23.02.2018.

8. With the above direction, the writ petition stands disposed of. No costs. Consequently connected miscellaneous petition is also closed.

s/d-  
Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

sk/rka

To

1. The Secretary,  
Revenue Department,  
Fort St. George, Chennai-9.

2. The Secretary,  
Public Works Department,  
Revenue Department,  
Fort St. George, Chennai-9.

3. The Collector,  
Kancheepuram District  
Thaiyar Kallam,  
Kancheepuram-631 501.

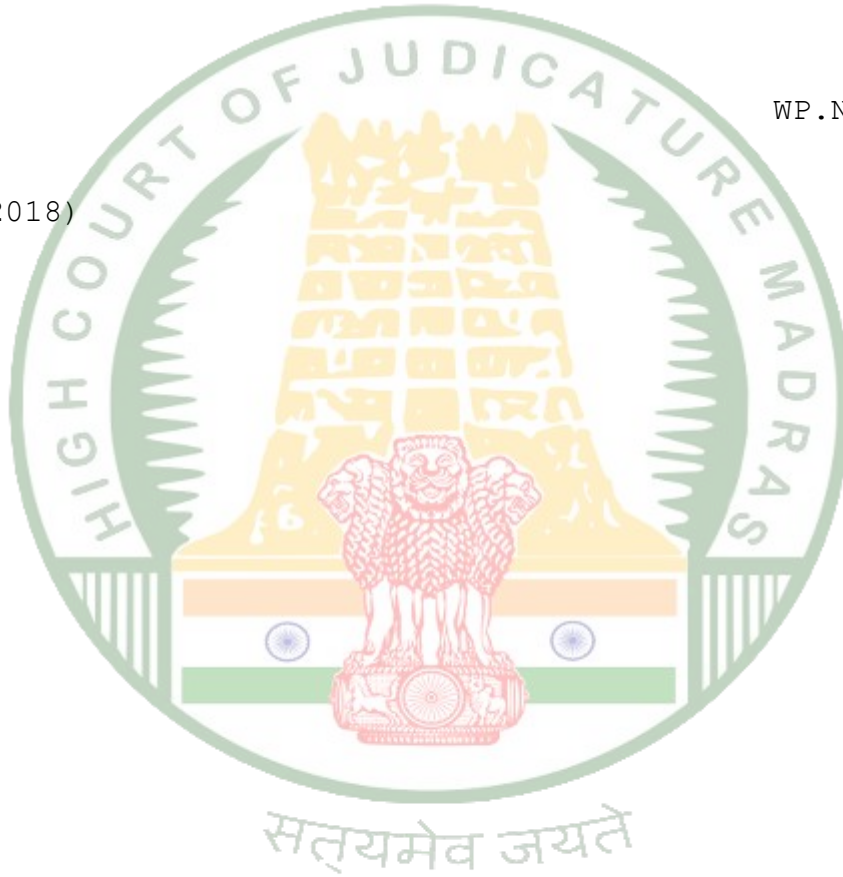
4.The Thasildhar,  
Alandur Taluk.

5.The Assistant Engineer,  
Public Works Department (WRD)  
Adyar Irrigation Section  
St.Thomas Mount  
Chennai-600 016.

+1 CC to Govt. Pleader sr 25958

WP.No.5892/2018

MR(CO)  
SP(09/05/2018)



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