

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 03.01.2018

Coram

THE HONOURABLE Mr. JUSTICE M.VENUGOPAL
AND
THE HONOURABLE Mr. JUSTICE S.VAIDYANATHAN

W.A.Nos.839 and 840 of 2017
C.M.P.No.11650 of 2017

P.Elangovan ... Appellant in both the Appeals

Vs.

1.The District Collector,
Thiruvannamalai District
Collector's Office,
Thiruvannamalai.

2. The Tahsildar,
Chengam Taluk,
Chengam - 606701

3. The Executive Officer
Chengam Town Panchayat
Chengam - 606 701
Thiruvannamalai District

4. The Assistant Executive Engineer,
Highways Department,
Chengam - 606 701

... Respondents in both the Appeals

Prayer: Writ Appeals filed under Clause 15 of Letter Patent to set aside the orders made in W.P.Nos.39204 and 40792 of 2016 dated 28.03.2017 and allow these Writ Appeals

WP.No.39204/2016:Writ petitions are filed under Article 226 of the constitution of India praying to issue a writ of mandamus

1)to direct the respondents to reinstate the petitioner into the vacant site which is situated next to the Shop No.1 at Chengam New Bus Stand and consequently directing the respondent to pay compensation to the tune of Rs.20,00,000/- (Rupees Twenty Lakhs only) for causing damages to the petitioner shop (in WP.39204/16)

2)to direct the 1st respondent for taking appropriate action against the erring officials for unauthorized demolition without following due process of law when the petitioner is in lawful possession in the leased property which is situated next to the Shop No. 1 at Chengam New Bus Stand (in

For Appellant : Mr.V.P.Rajendran

For Respondents : Mr.Vijay Narayan Advocate General
Assisted by
Mr.A.N.Thambidurai
Special Government Pleader and
Gautham Mr.Venkatesh
for Respondents

C O M M O N J U D G M E N T

[Judgment the Court was made by S.VAIDYANATHAN, J.]

The Appellant has come forward with these Writ Appeals as against the Common Order passed by the Learned Single Judge made in W.P.Nos.39204 and 40792 of 2016 dated 28.03.2017.

2. The case of the Appellant is that the Learned Single Judge has passed an order without hearing the appropriate authority, who created lease in respect of the vacant land in favour of the petitioner. The order is passed merely on the basis of counter filed by the High ways Department, as if the Appellant is an encroacher on the High way land. The petitioner is lease holder of the land by the operation of the government order. Further, the advance amount is still lying with the Executive Officer and that the said officer has not terminated the lease of the land, however, without considering all the facts, the Learned Single has dismissed the Writ Petitions. Aggrieved against the same, these Writ Appeals have been filed.

3. The learned counsel for the appellant submitted that he is one of successful bidder occupying the shop allotted to him. He would place heavy reliance on G.O.Ms.No.92, Municipal Administration and Water Supply Department dated 03.07.2007. After occupying the shop, the petitioner has been in continuous possession for nine years paying periodical revision of lease rent once in three years at the rate of 15% as demanded. Further, the appellant during the 3rd extended period of three years, the respondent has demolished the building on the ground that the Appellant is an encroacher and that the said land is classified as 'Government Thoppu Poramboke'.

4. Added further, learned counsel for the appellant would submit that when the lease period of the appellant is in existence, diverting the possession of the Appellant is illegal and that the respondent-authority have violated the terms and conditions of the lease, thereby seeks compensation for their illegal act.

5. Heard the learned counsel on either side and perused the documents placed on record.

6. Admittedly, whether the petitioner is an encroacher or was allotted the Government Poramboke and whether the respondent demolished the building during the extended period of lease, are all disputed questions of facts, which cannot be gone into by this Court. The appellant will have to work out his remedy only before the appropriate forum and the 'Writ' is not an alternative remedy for the Appellant to seek compensation. This Court is of the view that there is no prima case made by the appellant and there is no error or illegality warranting interference in the Common Order passed by the Learned Single Judge.

In result, the Writ Appeals stand dismissed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

ssd

To

1.The District Collector,
Thiruvannamalai District
Collector's Office,
Thiruvannamalai.

2. The Tahsildar,
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3. The Executive Officer
Chengam Town Panchayat
Chengam - 606 701
Thiruvannamalai District

4. The Assistant Executive Engineer,
Highways Department,
Chengam - 606 701

+2cc to MR.V.P.Rajendran, Advocate Sr.No.602, 601
+1cc to Government Pleader Sr.No.450

KJI (CO)
sm:20.2.2018

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