

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2018

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.No.26948 of 2018
and W.M.P.Nos.31313 & 31315 of 2018

Kasinathan ... Petitioner

Versus

1.The Thasildhar,
Palladam,
Tiruppur District.

2.The Commissioner,
Panchayat Union,
Pongallur.

3.Subramanian, M/54 years
S/o. Nallasamy Gounder
Therku Vasal Veedu
Nathagoundenpalayam,
V.Vadamalai Palayam Village,
Palladam Taluk,
Tiruppur District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari call for the entire records relating to impugned order dated 11.09.2018 passed by the second respondent in Na.Ka.No.2176/2018/A3 and quash the same.

For Petitioner :Mr.L.Mouli
For Respondents :Mr. A.N.Thambidurai (for R1)
Special Government Pleader
:Mr.V.Prabhu (for R2)
Government Advocate

W E B C O P Y
O R D E R

The petitioner has filed this Writ Petition to quash the proceedings of the second respondent dated 11.09.2018. By the impugned order, the second respondent has directed the petitioner to remove the debris and building material from the land in front of the home of one subramanian on the road side. While passing the impugned order, the second respondent has stated as if for removal of debris and building material an order has been passed by this Court in W.P.No.16258 of 2018 filed by one Subramanian who is the third respondent herein.

2 It is seen that the third respondent has earlier approached this Court for issuance of a Writ of Mandamus to direct the Commissioner, Panchayat Union, Pongallur to take action for removing debris located in front of his house based on his representations dated 01.11.2017 and 22.12.2017. In the said writ petition. This Court has passed the following order:

"4. The learned counsel for the petitioner submitted that the petitioner is a senior citizen and the inaction of the respondents not only affects the health, but also cause mental agony to him. It is further submitted that it would suffice, if a direction is issued to the third respondent to take action on the representation of the petitioner.

5. The learned Special Government Pleader submitted that the petitioner has not produced any proof for submitting representation and if a fresh representation is given to the third respondent, he is ready to take action in accordance with law.

6. Considering the limited scope of the prayer sought in this writ petition and the submissions made by the learned counsel on either side, this Court, without going into merits of the case, directs the petitioner to give a fresh representation to the third respondent by enclosing a copy of this order within a period of two weeks. On such compliance, the third respondent shall consider the same and take appropriate action on merits and in accordance with law, after providing an opportunity to the necessary parties, within a period of eight weeks there from."

3 This Court has passed the above order without going into the merits of the case. The third respondent was directed to give fresh representation and the second respondent herein was directed to consider the representation and take appropriate action on merits and in accordance with law, after providing an opportunity to the parties. It is not in dispute that the petitioner is not a party as seen from the order passed by this Court on 3.7.2018.

4 But, unfortunately the second respondent herein considered the above order as if a positive direction has been issued to him to direct the petitioner herein to remove the debris and building materials, which are available in Survey No.754/13. The second respondent has not even applied his mind as to the nature of the direction issued by this Court.

It is also seen from the order that no opportunity was given to the petitioner herein before passing the impugned order.

5 In that view of the matter, this writ petition is allowed and the impugned order is set aside. However, the second respondent is directed to consider the representation submitted by the third respondent herein after giving due notice to the petitioner and giving him an opportunity of hearing. No Costs. Consequently connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1.The Thasildhar,
Palladam,
Tiruppur District.

2.The Commissioner,
Panchayat Union,
Pongallur.

+1cc to M/s.L.Mouli, Advocate SR.NO.70986

+1cc to Government Pleader SR.NO.71082

AD(co)

sm:13.11.2018

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