



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.06.2019

CORAM

THE HON'BLE Mr. JUSTICE R. SURESH KUMAR

W.P. (MD) No.13360 of 2019

and

W.M.p. (MD) .No.9942 of 2019

WEB COPY

K.R.V.R.SM.V.Somasundaramchettiar

... Petitioner

-vs-

1.Assistant Settlement Officer (South),
Office of Survey and Settlement Director,
Chepauk, Chennai-5.

2.Kalyani
3.A.L.Nagappan
4.Umayal
5.Abirami
6.Chittal

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the first respondent in Na.Ka.A2/1128/2019 and quash the same and consequently direct the first respondent to proceed with the earlier proceedings No.Na.Ka.A2/9684/2014 to pass orders taking into account of all oral and documentary evidence in accordance with law.

For Petitioner : Mr.R.Thirugnanasambantham
For R-1 : Mr.Bhagavathi
Government Advocate

O R D E R

Challenging the order passed by the first respondent in Na.Ka.A2/1128/2019 and for a consequential direction to the first respondent to proceed with the earlier proceedings in No.Na.Ka.A2/9684/2014, this Writ Petition has been filed.

2.Heard Mr.R.Thirugnanasambantham, learned counsel, appearing for the petitioner and Mr.Bhagavathi, learned Government Advocate, appearing for the first respondent.

<https://hcservices.ecourts.gov.in/hcservices/>

3.The impugned order in this Writ Petition is a notice for



enquiry dated 29.05.2019, under which, the first respondent has directed the petitioner and other stakeholders to appear before the first respondent Office on 10.06.2019 at 04.00 p.m. Challenging the said enquiry notice, the present Writ Petition has been filed.

WEB COPY

4. Law is well settled that, in respect of a show cause notice or notice for enquiry, the same cannot be challenged, except, some exceptional circumstances, where, the authorities, who passes the show cause notice or enquiry notice, do not have jurisdiction to issue such notice. Here, there is no such case on the part of the petitioner to state that, the first respondent does not have the jurisdiction to issue notice. Moreover, the subject matter, as has been mentioned in the impugned notice, in fact, has not been fully known to the petitioner and the learned counsel appearing for the petitioner has relied upon the proceedings issued by the first respondent dated 26.11.2018, whereby, expecting some decision to be taken by the Government, the proceedings has been deferred. Therefore, in that background, the learned counsel appearing for the petitioner submitted before this Court that, when the earlier proceedings have been deferred, if at all, the same has to be restored and proceeded further, they can proceed only the earlier proceedings and they cannot issue a new proceedings in the impugned communication i.e., enquiry notice and therefore, the first respondent does not have the jurisdiction to issue this enquiry notice.

5. I have gone through the said document referred to by the learned counsel appearing for the petitioner and I find that, as far as the impugned communication is concerned, it is nothing but an enquiry notice under the heading “விசாரணை அறிவிப்பு” and a date and time has been fixed as 10.06.2019 at 04.00 p.m. at the office of the first respondent, where, not only the petitioner, but all other stakeholders were also directed to be present. Unless the petitioner appeared and ascertained as to what orders are passed, against which, the proposed review is going to take place, of course, at the instance of the private parties and unless the same is ascertained by the petitioner, the petitioner may not be in a position to make his submissions before the first respondent.

6. The learned counsel infact submitted that, pursuant to the said impugned notice, the petitioner had appeared before the first respondent on 10.06.2019 and the enquiry has been deferred to some other date. In this regard, it is the grievance of the petitioner that, one earlier proceeding also had been deferred, when that being so, the present proceedings had also been deferred. Therefore, only in that context, challenging the enquiry notice, the present Writ Petition has been filed.

<https://hcservices.ecourts.gov.in/hcservices/>

7. When the enquiry notice dated 29.05.2019, has acted upon by the parties, as admittedly the petitioner appeared before the



first respondent, the question of challenging such notice does not arise, at this juncture. Moreover, as per the reasons I have mentioned in the earlier paragraphs, normally, this Court will not entertain, the challenge against the show cause notice or enquiry notice, without the reason of want of jurisdiction by the authority, by whom, such notices are issued. Here, in the case on hand, it cannot be construed that, the first respondent does not have the jurisdiction to issue notice. Therefore, for all these reasons, this Court is not inclined to entertain this Writ Petition. Accordingly, this is liable to be dismissed. Hence, this Writ Petition stands dismissed.

8.However, it is open to the petitioner to make a request to the first respondent and seek clarification from the first respondent as to the fate of the earlier proceedings, which has been deferred by the very same first respondent, by his proceedings dated 26.11.2018 so also, what is the relevancy of the present proceedings initiated through the impugned communication and what for it has also been deferred. If such representation is made by the petitioner, the first respondent is duty bound to clarify the same to the petitioner and thereupon can proceed in accordance with law. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar(CS)

To
The Assistant Settlement Officer (South),
Office of Survey and Settlement Director,
Chepauk, Chennai-5.

+1 CC to M/s.R.THIRUGNANA SAMBANTHAM, Advocate (SR-68717[F] dated 14/06/2019)

+1 CC to M/s.SPL GP (SR-68783[F] dated 14/06/2019)

TSG

W.P. (MD) No.13360 of 2019
13.06.2019

_KM/(10.07.2019) 3P 4C