



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

and

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

W.P.No.11173 of 2021

L.Desammal,
W/o.Loganathan,
Door No.158, Road, Street,
Ganapathipuram Village & Post,
Arakkonam Taluk,
Vellore District - 631 051.

...Petitioner

Vs

1.The Secretary,
State Human Rights Commission,
No.143, P.S.Kumarasamy Raja Salai,
Greenways Road, Chennai 600028.

2.The Assistant Registrar (Law),
State Human Rights Commission,
No.143, P.S.Kumarasamy Raja Salai,
Greenways Road, Chennai 600028.

...Respondents

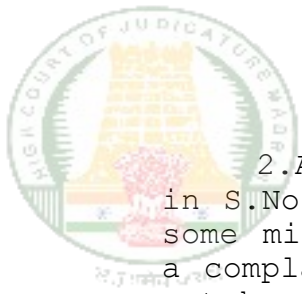
PRAYER : Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the order dated 23.06.2020 issued by the 2nd respondent under Section 36(2) of the Protection of Human Rights Act, 1993 in S.H.R.C. Case no.12603 of 2019 and quash the same and consequently directing the respondents to enquire and to proceed the case in S.H.R.C.No.12603 of 2019 on merits and to complete the proceedings within a stipulated period as fixed by this Court.

For Petitioner : Mr.P.Balamurugan

ORDER

(Order of the Court was passed by N.KIRUBAKARAN,J)

The Petitioner has come before this Court challenging the order passed by the State Human Rights Commission, dismissing the complaint filed by the Petitioner as not maintainable under Section 36(2) of the Protection of Human Rights Act, 1993



2. According to the Petitioner, the house constructed by him in S.No.102/1 of Ganapathipuram Village & Post was burnt out by some miscreants on 10.09.2017. Though the petitioner preferred a complaint and made an attempt to register a FIR, the same has not been registered. Hence the Petitioner was compelled to file Crl.O.P.No.26443 of 2017 and obtained an order dated 21.12.2017. Further, the police protection sought by the Petitioner in Crl.O.P.No.9803 of 2018 was declined by order dated 27.04.2018.

3. The Petitioner filed W.P.No.30307 of 2018 praying for a direction to respondents 1 and 2 therein, to consider his representation dated 12.07.2018 to issue patta for the property situated at Door No.158, Road Street, Ganapathipuram Village & Post, Arakkonam Taluk, Vellore District 631 051. In the said Writ Petition, this Court vide order dated 19.11.2018, directed the 2nd respondent therein to consider the Petitioner's representation dated 12.07.2018 on merits. Since it has not been complied with, a Contempt Petition has been filed in Cont.P.No.875 of 2019 and the same was closed on 20.08.2019 as the authorities by order dated 30.07.2019, rejected the petitioner's claim for issuance of patta on the ground that as per the revenue records the subject property viz., S.No.102/1 to an extent of 0.24.0 Ares is the temple pathway.

4. Contending that he has been living in the bus stand, the Petitioner has sought for action against the persons, who burnt out his house and approached the Human Rights Commission on 06.12.2019. The said Petition was dismissed at the threshold stage itself, holding that the same is barred under Section 36 (2) of the Protection of Human Rights Act, 1993. The said order is being challenged before this Court.

5. Heard the parties and perused the records.

6. It is evident from the averments that as per the revenue records, the property which is alleged to be burnt out is a temple pathway. Though the Petitioner would contend that he has been living in the subject property for the past 60 years, he has no right to live in that place. No doubt, the petitioner has approached this Court by filing Crl.OPs as well as Writ Petitions for taking action against the culprits, who have burnt out his property as well as for issuance of patta. It is evident from the order dated 30.07.2017 passed by the Tahsildar that the Petitioner is having a property and the Government has granted a sum of Rs.1,70,000/- for construction of house under the Indra Memorial Housing Scheme. When that is the position, to avail such benefit, the Petitioner cannot have any other property. Moreover, it may be a fact that the property has been burnt out on 10.09.2017. When a statute has prescribed a time limit for approaching a Forum, the same has to be complied with,



failing which, the Petition is not maintainable as per Section 36(2) of the Protection of Human Rights Act, 1993, which reads as follows:

"(2) The Commission or the State Commission shall not inquire into any matter after the expiry of one year from the date on which the act constituting violation of human rights is alleged to have been committed."

From the above, it is clear that within a period of one week the aggrieved party has to approach the Human Rights Commission. The alleged incident occurred on 10.09.2017 and the Petitioner approached the Human Rights Commission only on 06.12.2019. Therefore, the order of the Human Rights Commission is sustainable.

7. At this juncture, the learned counsel appearing on behalf of the Petitioner seeks permission of this Court to challenge the order passed by the Revenue authorities. It is needless to say that it is always open to the Petitioner to challenge any order if he is aggrieved over the same, before various Forum as per law.

8. Accordingly, the Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
State Human Rights Commission,
No.143, P.S.Kumarasamy Raja Salai,
Greenways Road, Chennai 600028.

2. The Assistant Registrar (Law),
State Human Rights Commission,
No.143, P.S.Kumarasamy Raja Salai,
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W.P.No.11173 of 2021

PL(CO)
RGA(22/07/2021)