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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2021

CORAM

THE HONOURABLE MR.JUSTICE R. MAHADEVAN

Writ Petition No.30237 of 2016

S.Thiyagarajan

...Petitioner

Versus

1.The Deputy Director
Survey and Land Records Dept.,
District Collectorate Office
Sathuvacheri, Vellore-9

2.Loganathan

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the first respondent to consider the representation of the petitioner dated 26.03.2016 and take action against the second respondent in accordance with law within the reasonable time to be fixed by this Court.

For Petitioner : Mr.M.Venkatakrishnan

For Respondents : Mr.G.Krishnaraja,
Government Counsel for R1

Mr.K.Mohanamurali for R2

O R D E R

The writ petition has been filed seeking a direction to the first respondent to consider the representation of the petitioner dated 26.03.2016 and take action against the second respondent in accordance with law within a time to be fixed by this Court.



2. According to the petitioner, the land situated in Old Survey Nos. 228 and 249, comprised in T.S. No.37, Ward "B", Block "4", Arakkonam Town was under the occupation of his family from the year 1960. The Arakkonam Municipality had passed a resolution, recognised the possession of the family of the petitioner and granted assignment in his favour. While so, the owner of the adjacent land, namely Hari Singh had filed a Civil Suit in O.S. No.58 of 1999 on the file of the District Munsif, Arakkonam seeking permanent injunction restraining the petitioner from in any way interfering with his possession and enjoyment of the property. In the said suit, an Advocate Commissioner was appointed to note down the physical features of the suit property. The advocate commissioner had inspected the site and filed a detailed report along with the sketch prepared by the then Town Surveyor indicating the nature and extent of the petitioner's possession and enjoyment of the property. On realising the weakness of the case, the said Hari Singh had withdrawn the suit with liberty to file a fresh suit on the same cause of action on 06.07.2001. Thereafter, he filed a fresh suit in O.S. No.244 of 2001 on the file of the Subordinate Judge, Ranipet against the petitioner for declaration of his right of way over the 'B' schedule property and for mandatory injunction against respondents 1 to 5 therein for removal of encroachment. The suit was subsequently re-numbered as O.S. No.267 of 2004 on the file of the District Munsif, Arakkonam and ultimately, the suit was dismissed for non prosecution on 25.04.2008. In this circumstance, the second respondent, who was working as Inspector of Town Survey, Arakkonam Town, prepared a FM sketch with false particulars about the survey numbers to circumvent the dismissal of the civil suits filed by Hari Singh. On the basis of the false sketch provided by the second respondent, the new owners of the land moved this Court seeking a direction to the Highways Authorities for removal of encroachments. In this regard, the petitioner had submitted a detailed representation along with the documents in support of the allegations to the first respondent on 26.03.2016 and requested to take necessary action against the second respondent. Since the same was not considered, the petitioner has no other option except to file this writ petition seeking appropriate direction to the respondents in this regard.

3. Upon notice, the first respondent filed a detailed counter affidavit, wherein, it is inter alia contended that one



any order. Therefore, it would be appropriate to direct the first respondent to take action on the representation dated 26.03.2016 of the petitioner.

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6. Considering the above facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, this Court directs the first respondent to consider the petitioner's representation dated 26.03.2016 and pass appropriate orders, on merits and in accordance with law, after affording due opportunity of hearing to the petitioner as well as the second respondent, within a period of eight weeks from the date of receipt of a copy of this order.

7. With the above direction, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar

// True Copy //

Sub Assistant Registrar

vum/rsh

To

The Deputy Director,
Survey and Land Records Dept.,
District Collectorate Office,
Sathuvacheri, Vellore-9.

+1cc to Mr.M.Venkatakrisnan, Advocate SR.No.45084

+1cc to the Government Pleader SR.No.45818

WP No.30237 of 2016

CA(CO)
RVM(25/10/2021)