



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2021

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THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO.14042 OF 2021

S.Velusamy,

..Petitioner

Vs

The Commissioner,
Mayiladuthurai Municipality,
Municipality Officer,
Mayiladuthurai.

..Respondent

Prayer: Writ Petition is filed under Article 226 of Constitution of India for writ of certiorarified mandamus, calling for the records in Na.Ka.No.1398/2021/A2 dated 26.03.2021 on the file of the respondent and quash the same and consequently direct the respondents to convey the land in T.S.No.113/3A to a extent of 198 sq.ft. in favour of the petitioner as per the directions of their Hon'ble court in S.A.No.1243/1991 dated 23.10.2002.

For Petitioner : Ms.M.Sneha
For M/s.J.Ravindran

For Respondent : Mr.A.Selvendran, GA

O R D E R

Challenge in the writ petition is the impugned order passed by the respondent in Na.Ka.No. 1398/2021/A2, dated 26.03.2021. The contention of the learned counsel for the petitioner is that the petitioner and his predecessors have been paying all the dues to the respondent without any arrears from the year 1933.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondent and perused the records.

3. The respondent had issued notice for public auction in respect of the petitioner's premises to the extent of 192 sq.ft. comprising in Survey No.113/3A. The writ petitioner has filed a suit in O.S.No.179 of 1985 before the District Munsif Court,



Mayiladuthurai. The said suit was dismissed on 30.12.1989. Against the said dismissal, the petitioner has filed an Appeal in A.S.No. 27 of 1990 before the Sub Court, Mayiladuthurai. The said appeal was also dismissed. Challenging the aforesaid judgment and decree, the petitioner has preferred a Second Appeal before this Court in S.A.No.1243/1991. The said Second Appeal was decreed in favour of the petitioner by this Court on 23.10.2002, directing the respondent municipality to convey the aforesaid property measuring 198 sq.ft in T.S.No. 113/3A in favour of the petitioner on the prevailing market price. As directed by this Court, the petitioner has sent a lease amount along with the order of this Court dated 23.10.2002 requesting the respondent to convey the property. The same was returned by the respondent/municipality by letter dated 26.03.2021 stating that there is no lease with respect to the said property and refused to convey the said property. Challenging the same, the present writ petition is filed.

4. The main contention of the petitioner is that the respondent municipality did not execute the sale deed in favour of the petitioner despite the decree obtained in Second Appeal before this Court.

5. It appears that the judgment was passed by this Court in Second Appeal No.1243/1991 as early on 23.10.2002 and there are no records filed before this Court to show that the petitioner has approached the respondent to comply the said order till the year 2017. After a length of time, the petitioner has made representation only on 28.03.2017 to the respondent to comply with the directions issued in the judgment passed by this Court in the Second Appeal.

6. On perusal of the reply/letter dated 26.03.2021 sent by the respondent municipality, which is impugned in the writ petition, it is stated that the aforementioned property is belongs to the Municipality and being used as foot path, therefore, they cannot execute the said property to the petitioner.

7. Considering the facts and circumstances of the case and in view of the statement made by the respondent in the impugned order, this Court feels that it would not be appropriate for this Court to go into the merits and to decide the disputed facts of the case. Since the petitioner's prayer is for a direction to the respondent to execute the sale deed, it is always open to the petitioner to seek remedy before the Civil Court if permissible under the law.

8. This Court further makes it clear that insofar as continuance of lease is concerned, it is open to the petitioner



to make a fresh representation to the authorities concerned along with all relevant documents.

9. In fine, the writ petition is dismissed with the above observations. No costs.

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Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

The Commissioner,
Mayiladuthurai Municipality,
Municipality Officer,
Mayiladuthurai.

+lcc to Mr.J.Ravindran, Advocate, S.R.No.31884
+lcc to the Government Pleader, S.R.No.32133

W.P.No. 14042 of 2021

PCH(CO)
RGA(05/08/2021)