



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.08.2021

CORAM

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.(MD)No.9173 of 2021

WEB COPY

N.Selvam

... Petitioner

Vs.

1. The District Collector,
Collectorate,
Trichy District.

2. The District Revenue Officer,
Trichy.

3. The Revenue Divisional Officer,
Srirengam Division, Trichy District.

4. The Tahsildar,
Srirengam Taluk, Trichy District.

... Respondents

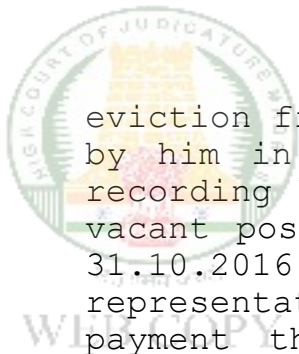
Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first respondent to consider my representation dated 24.03.2021 to award compensation for ransacking my belongings and the superstructure in S.No.298 in Sethurappatti Village, Trichy District within a period that may be stipulated by this Hon'ble Court.

For Petitioner : Mr.N.Mohan
For Respondents : Mr.R.Baskaran,
Counsel for State

O R D E R

The petitioner seeks a mandamus to consider his representation dated 24.03.2021 for payment of compensation in relation to the demolition of the superstructure at S.No.298 in Sethurappatti Village, Trichy District.

2. The petitioner states that his father had purchased one cent of land under a registered sale deed on 23.06.1969. On 12.07.1990, the petitioner purchased the adjacent land measuring about seven cents. He states that he constructed a pucca building admeasuring about 2000 Sq.Ft on the said land in 1991. He also states that he was running a textile store on the ground floor of the said building in the name and style of "Selvam Javuli Store". The petitioner further states that he had filed W.P.No.16748 of 2014 to prevent his



eviction from the aforesaid property. Pursuant to an affidavit filed by him in that proceeding, the writ petition was disposed of by recording his undertaking to vacate the property and hand over the vacant possession thereof to the Tahsildar, Sirengam on or before 31.10.2016. Pursuant thereto, he states that he submitted a representation on 26.09.2016 for compensation. In view of the non payment thereof, he filed W.P.No.19989 of 2016. The said writ petition was disposed of by recording the petitioner's undertaking to vacate the property and by directing the District Collector, Tiruchirappalli to consider the petitioner's request for compensation.

3. Learned counsel for the petitioner states that W.P.No.19989 of 2016 was disposed of by order dated 26.10.2016. In spite of communicating such order to the first respondent, he states that the first respondent disregarded the order and rejected the claim for compensation without assigning any reasons therefor. Accordingly, he states that he is entitled to compensation and that the District Collector should be directed to consider the claim for compensation in terms of the representation dated 24.03.2021.

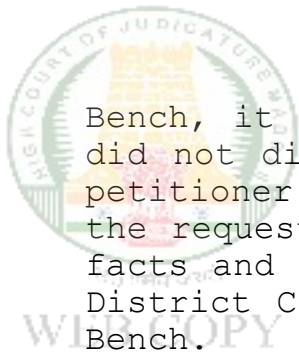
4. In response and to the contrary, Mr.R.Baskaran, learned counsel for the State, submits that the first respondent duly considered the petitioner's request for compensation and rejected such request by the order dated 23.03.2017. In this regard, he refers to the last paragraph of the order dated 23.03.2017, wherein it is stated that the rules do not provide for the payment of compensation to an encroacher when such encroachments have been removed in accordance with law. On this basis, learned counsel for the State contends that the petitioner is not entitled to any relief and that the writ petition is liable to be rejected.

5. The principal issue that arises for consideration is whether the petitioner's request for compensation is liable to be considered by the District Collector pursuant to the representation dated 24.03.2021. Upon perusal of the order dated 23.03.2017 of the District Collector, it is clear that such order was passed upon perusal of the judgment of the Division Bench dated 26.10.2016 in W.P.No.19989 of 2016. After taking note of that judgment, the District Collector concluded that there is no provision for payment of compensation to encroachers in cases wherein the encroachments were removed in accordance with law.

6. Learned counsel for the petitioner contended that this order disregards the direction of the Division Bench to consider the request for compensation. After perusal of the judgment of the Division Bench, it is noticeable that the Division Bench recorded as under, *inter alia*, in paragraph 6:

"....Whether the petitioner is entitled for compensation or not is a matter to be gone into only by the authority concerned, about which, we do not want to express any opinion at this stage".

7. From the above extract of the judgment of the Division



Bench, it is abundantly clear that the Division Bench of this Court did not direct the District Collector to award compensation to the petitioner. Instead, the District Collector was directed to consider the request for compensation and decide the same on merit. In these facts and circumstances, it cannot be said that the decision of the District Collector is in the teeth of the judgment of the Division Bench.

8. Given the fact that the District Collector has already rejected the claim for compensation by order dated 23.03.2017, the relief of mandamus as prayed for by the petitioner cannot be granted. Nevertheless, it will be open to the petitioner to assail the order dated 23.03.2017 or institute a civil action claiming damages. In the event such proceedings are initiated, it would be open to the civil court concerned to examine the same without being influenced by any of the observations contained herein.

9. W.P(MD).No.9173 of 2021 is disposed of on these terms without any order as to costs.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

pkn

To

1. The District Collector,
Collectorate,
Trichy District.
2. The District Revenue Officer,
Trichy.
3. The Revenue Divisional Officer,
Srirengam Division, Trichy District.
4. The Tahsildar,
Srirengam Taluk, Trichy District.

+1 CC to M/s.GP (SR-25081[F] dated 03/08/2021)

W.P. (MD)No.9173 of 2021

02.08.2021

MGJ(11.08.2021) 3P 6C