



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **04.06.2021**

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.9656 of 2021

W.M.P(MD).No.7403 of 2021

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K.V.K.R.Prabhakaran

... Petitioner
Vs.

1.The Revenue Divisional Officer,
Cum Appellate Authority,
Dindigul,
Nilakottai Taluk.

2.The Tahsildar,
Nilakottai Taluk,
Dindigul District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the first respondent to pass orders on the statutory appeal preferred by the petitioner taken on file as 2145/2021/A3 against the order made by the second respondent in Na.Ka.No.2429/2018/A3 dated 31.03.2021, within the time that may be stipulated by this Court and consequently, forbear the respondents from taking any coercive action against the petitioner till such time.

For Petitioner	: Mr.M.Ajmal Khan Senior Counsel for Ajmal Associates
For Respondents	: Mr.P.Thillak Kumar,

Standing Counsel for Government

ORDER

Mr.P.Thilak Kumar, learned Standing Counsel for the Government, accepts notice on behalf of the respondents.

2. By consent, the writ petition is taken up for final disposal at the admission stage itself.

3. This writ petition has been filed by the petitioner seeking for issuance of a Writ of Mandamus, directing the first respondent to pass orders on the statutory appeal preferred by the petitioner taken on file as 2145/2021/A3 against the order made by the second respondent in Na.Ka.No.2429/2018/A3 dated 31.03.2021, within the time that may be stipulated by this Court and consequently, forbear the respondents from taking any coercive action against the



petitioner till such time.

4. The case of the petitioner is that the lands to an extent of 1.80.0 hectares in Survey Nos.255, 256, 257 and 258, Sitharkalnatham Village, Nilakottai Taluk, Dindigul District and Survey Nos.274, 257 and 256 belong to the State and also adjoin the river poramboke. In the above said lands, the petitioner has planted coconut trees and silk cotton trees and the petitioner has also been issued 2C Patta under the Board of Revenue, Standing Orders (RSO 18). Further, he has also been paying the necessary charges stipulated by the respondents towards the enjoyment of the rights. In fact, the 2C Patta was granted vide proceedings dated 18.09.2010. By the said proceedings, the respondents have granted 2C patta invoking power of RSO 18, fixing the charges payable in respects of every coconut tree in the said land at Rs.8 and Rs.1 for every silk cotton tree for every fasli, in favour of the petitioner herein. Suddenly, the respondent have served the order dated 25.01.2018 on 05.05.2018, cancelling the 2C Patta issued in favour of the petitioner. It is pertinent to note that before passing the said order, no notice or opportunity of hearing was given to the petitioner. Thus, the order is in gross violation of the principles of natural justice. Hence, the petitioner challenged the said cancellation order by way of a writ petition in W.P(MD).No.13755 of 2018 on the file of this Court. However, pending the said writ petition, coercive action was sought to be taken by the respondent by issuance of Form III notice dated 10.03.2020 and the orders of eviction dated 06.03.2020. Hence, challenging the same, the petitioner has filed a writ petition in W.P.(MD).No.2345 of 2021 on the file of this Court. By order dated 09.02.2021, this Court allowed the writ petition by holding the action to be illegal and directing that the said proceedings and notices are to be treated as show cause notice and the reply to be furnished to the same and on the basis of which, appropriate orders are to be passed. In furtherance of the said order, he had submitted detailed representation dated 08.03.2021. However, without considering the same, the respondent passed the order in Na.Ka.No.2429/2018/A3 dated 31.03.2021 cancelling the grant of trees made under the Tree Tax System under RSO-18(2c) of the Revenue Standing Orders of the Board of Revenue. As the said order was passed by the second respondent without jurisdiction and in violation of the principles of natural justice, he was constrained to prefer a statutory appeal as provided under the Revenue Standing Orders-18(2)(d)(i) of the Revenue Standing Orders of the Board of Revenue and the said appeal had been taken on file as File No.2145/2021/A3. Despite receipt of the appeal and taking the same on file, no further action has been taken by the first respondent to dispose of the appeal. Hence, the present writ petition has been filed.

5. The learned counsel for the petitioner would state that it would be suffice if a direction is given to dispose of the appeal



6. The learned standing counsel for the respondents would state that the appeal filed by petitioner would be considered within a reasonable time.

7. Considering the submissions of the learned counsel for the petitioner as well as the respondents and in the light of the facts and circumstances of the case, without going into the merits of the case projected by the petitioner, the first respondent is directed to dispose of the statutory appeal filed by the petitioner which is taken on file as 2145/2021/A3, on merits and in accordance with law and pass appropriate orders within a period of twelve weeks from the date of receipt of a copy of this order. In the meanwhile, the respondents are directed to maintain status quo, till the disposal of the appeal.

8. With the above direction, the writ petition is disposed of. No Costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CSII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note:(i) In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

ssb

To:

1. The Revenue Divisional Officer,
Cum Appellate Authority,
Dindigul,
Nilakottai Taluk.

2. The Tahsildar,
Nilakottai Taluk,
Dindigul District.



+1 CC to M/s.SPL GP (SR-18943[F] dated
07/06/2021)

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-
18878[F] dated 07/06/2021)

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