



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :21.01.2022

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Writ Petition No.675 of 2022

K.Manoharan

... Petitioner

-Vs-

1.The Commissioner
Corporation of Chennai
Rippon Buildings
Poonamallee High Road
Chennai 600 003.

2.The Executive Engineer
Zone-V, Corporation of Chennai
Chennai 600 021.

3.Murali

... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the 1st respondent to consider the representation dated 03.01.2022 and dispose off the same within a stipulated time.

For Petitioner : Mr.Rajkumar Paul

For Respondents : Ms.P.T.Ramadevi,
Standing Counsel - for RR 1&2

O R D E R

The relief sought for in the present writ petition is to direct the 1st respondent to consider the representation dated 03.01.2022 and dispose off the same within a stipulated time.

2. The petitioner states that, he is running an electronics items repair shop at No.20/43, Chella Pillayar Koil Street, Royapettah, Chennai 600 014. The petitioner states that, he is a tenant under Mrs.Sulochana, who died about 10 years back. Her husband also died and the petitioner states that she has no legal heirs to succeed her property. The officials of Corporation of Chennai came to the premises and sealed the property as the taxes were not paid. The petitioner raised an allegation that a group of men engaged by the second respondent



came to the shop and demolished the same. The petitioner gave a complaint before the police station and no action has been taken. In this regard, the petitioner submitted a representation on 03.01.2022 to the Commissioner, Corporation of Chennai and based on the said representation the present writ petition is filed to direct the 1st respondent to consider the representation.

3. The principles to be followed for issuing a direction to consider the representation in a Writ proceedings has been elaborately considered by this Court in W.P.(MD) No.12782 of 2015 dated 08.07.2019 and the relevant paragraphs are extracted hereunder.

" 13. Thus, for entertaining a writ of mandamus to consider the appeal / representation, the following requirements are to be adhered to:

- (i) The person filing a writ petition should have approached the authority concerned by preferring appeal / representation setting out all the facts and details along with the cause of action arose for filing such appeal / representation.
- (ii) Such an appeal / representation must be duly acknowledged by the authority concerned.
- (iii) The person, who files a writ petition, should establish that he has established the legal rights for the purpose of redressing his grievances before the competent authority. In other words, it is a precondition that the person, who files a writ petition, should establish the legal rights for the purpose of approaching the competent authority as well as the High Court under Article 226 of the Constitution of India.
- (iv) Such an appeal / representation must have been preferred within the time limit prescribed in the Service Rules or at least within a reasonable period.
- (v) The normal period of limitation prescribed in the Service Rules of various Departments of the State and Union is that 60 days or 90 days from the date of arising of cause of action. If there is no order affecting the rights of a person, then such an appeal /



WEB COPY

representation must be filed at least within a period of six months from the date of arising of cause of action. Thus, any appeal or representation must be submitted to the competent authority within a period of six months from the date of arising of cause of action.

(vi) On receipt of such an appeal / representation from the aggrieved person, the competent authority is bound to consider the same and pass orders within a period of six months from the date of receipt of the representation / appeal.

(vii) In the event of not passing any orders within a period of six months, then alone, a writ of mandamus should be entertained for the purpose of issuing a direction to the authority concerned to consider the representation / appeal and pass orders.

(viii) Even such procedures are contemplated in certain Special Acts, namely, Administrative Tribunal Act etc., and several other Acts prescribe time limit for the purpose of preferring appeal and even the Service Rules of various Departments of the State or Union also prescribe time limit for preferring appeal / representation. All such appeals / representations are to be filed within a time limit prescribed and in the event of filing any such appeal / representation beyond the period of limitation, then, such an appeal / representation shall be entertained by the competent authority only on filing a petition by the aggrieved person to condone the delay and the delay condonation petition is to be decided by the competent authority by considering the reasons adduced and by taking a decision on merits and in accordance with law.

.....
.....

19. Even recently, the Honourable Supreme Court of India, in the case of Government of India Vs. P.Venkatesh (Civil Appeal No.2425 of 2019), has held as follows:-



WEB COPY

"...This 'dispose of the representation' mantra is increasingly permeating the judicial process in the High Courts and the Tribunals. Such orders may make for a quick or easy disposal of cases in overburdened adjudicatory institutions. But, they do no service to the cause of justice. The litigant is back again before the Court, as this case shows, having incurred attendant costs and suffered delays of the legal process. This would have been obviated by calling for a counter in the first instance, thereby resulting in finality to the dispute...."

4. This Court is of the considered opinion that, the petitioner claims himself as a tenant. He states that the owner of the property died and the Corporation officials demolished a portion of the building. As per the affidavit filed by the petitioner, it is made clear that the petitioner has no right in respect of the property and he is not paying any rent to the owner of the property.

5. Under these circumstances, the authorities are empowered to initiate all further action to collect taxes from the occupant under the provisions of the Chennai City Municipal Corporation Act. When the petitioner has not established even a semblance of legal right, there is no reason to consider the writ petition filed seeking direction to consider the representation. In fact, the petitioner himself is not in lawful occupation and not paying the rent to the owners of the property and therefore, the authorities are bound to initiate action in the manner known to law. Thus, the representation submitted by the petitioner would not provide any cause for him to file the present writ petition, as he has failed to establish any right for the purpose of considering the same.

6. Accordingly, the writ petition is devoid of any merits and stands dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar



KST

To

1. The Commissioner
Corporation of Chennai
Rippon Buildings
Poonamallee High Road
Chennai 600 003.
2. The Executive Engineer
Zone-V, Corporation of Chennai
Chennai 600 021.

+2cc to Mr.Rajkumar Paul, Advocate, S.R.No.3604

W.P.No. 675 of 2022

GPL(CO)
CT 10/02/2022