

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.No.2035 of 2022 and
W.M.P. Nos.2196 and 2197 of 2022

J.Srinivasan

... Petitioner

vs

- 1.The Diocese of Chengalpet,
represented by Rev. Fr.M.Immanuvel Raj,
Property Administrator
(St. Thomas Mount Hill),
Diocese of Chingleput,
Kancheepuram Road,
Thimmavaram,
Chengalpet - 603 101.
- 2.The Chief Executive Officer,
Office of the Cantonment Board,
St. Thomas Mount,
Chennai - 600 016.
- 3.The Appellate Authority,
General Officer,
Commending in Chief Southern Commend Pune,
St. Thomas Mount cum
Pallavaram Cantonment Board,
Chennai-16.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the second respondent to remove the lock and seal put up in the property of petitioner being land and house property situated at Kancheepuram District, Alandur Taluk, comprised in Survey No.1911/3 measuring about 910 sq.ft. bearing Door No.4/92-144, Mangaliamman Koil Street, St. Thomas Mount.

For Petitioner

: Mr.K.Venkateswaran

ORDER

[Order of this Court was delivered by T.RAJA, J.]

The petitioner has come to this Court for issuance of writ of mandamus directing the second respondent to remove the lock and seal put up in his property, situated at Kancheepuram District, Alandur Taluk, comprised in Survey No.1911/3, measuring about 910 sq.ft. bearing Door No.4/92-144, Mangaliamman Koil Street, St. Thomas Mount.

2.Learned counsel appearing for the petitioner submitted that the petitioner has been residing in his ancestral property, after the demise of his father and his grand father, without any hindrance and paying the property tax to the Chief Executive Officer, Office of the Cantonment Board, St. Thomas Mount, Chennai, the second respondent herein. While so, some of the persons, who are residing near the locality of the petitioner, have given a false complaint as against the petitioner to the respondents. In turn, the second respondent issued a Notice under Section 248(i) of the Cantonment Act 2006. When the petitioner has not constructed any unauthorised construction as alleged by the respondents, the above notice issued by the second respondent is not valid in law because the same came to be issued after a long period of time of construction of the property. In this regard, the petitioner filed an Appeal against the notice issued under Section 248(i) of the Cantonment Act 2006 and the same is pending before the Appellate Authority, being the General Officer, Commending in Chief Southern Commend Pune, St.Thomas Mount cum Pallavaram Board. Therefore, the petitioner is before this Court seeking the above direction.

3.When the petitioner is residing in the heart of the city, he has to follow the rules and regulations and he is always entitled to put up the construction, after getting prior permission from the competent authority and equally, he is not entitled to put up any construction whatsoever, without getting prior permission from the competent authority. Therefore, a notice dated 16.12.2020 has been issued in exercise of the power conferred under Section 248(i) of the Cantonment Act 2006. When the petitioner has already filed an appeal, he has to work out his remedy only before the Appellate Authority, where the appeal is pending for consideration and he cannot bypass the Appellate Authority and come to this Court under Article 226 of the Constitution of India by seeking a direction to the second respondent to remove the lock and seal put up in the property.

Therefore, we are inclined to dismiss this petition.
Accordingly, this writ petition stands dismissed.
Consequently, connected W.M.Ps stand closed. No costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

vga

To

- 1.The Chief Executive Officer,
Office of the Cantonment Board,
St. Thomas Mount,
Chennai - 600 016.
- 2.The General Officer,
Appellate Authority,
Commending in Chief Southern Commend Pune,
St. Thomas Mount cum
Pallavaram Cantonment Board,
Chennai-16.

+1 cc to Mr.K.Venkateswaran, Advocate Sr.NO. 8569

W.P.No.2035 of 2022 and
W.M.P. Nos.2196 and 2197 of 2022

sj(CO)

A.SK(25.02.2022)