



W.P.No.26052 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

WP.No.26052 of 2013 &

W.P.M.P.No.1 of 2013

K.V.Ismail

... Petitioner

Vs

1. The Assistant Director
Town Panchyat
Vellore Zone,
Vellore-9.

2. The Executive Officer
Town Panchayat
Kanamangalam
Tiruvannamalai District

3. K.Prakash

... Respondents

Prayer:- This Writ Petition is filed, under the Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records in Na.Ka.No.126/2012/A1 dated 29.6.2012 on the file of the 2nd respondent and quash the same and further direct the respondents to take appropriate action in accordance with law by enforcing the G.O Ms.No.754 dated 7.5.1979.



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For Petitioner : Mr.N.P Kumar

For Respondents : Mr.S. Rajesh for R1
Government Advocate

Ms.M.E.Raniselman for R2

Mr.M.Venkatakrishnan for R3

ORDER

This Writ Petition has been filed, challenging the proceedings of the 2nd respondent passed in Na.Ka.No.126/2012/A1 dated 29.6.2012 and further directing the respondents to take appropriate action in accordance with law by enforcing the G.O Ms.No.754 dated 7.5.1979.

2. The case of the petitioner is that the 3rd respondent's father is running a Flour Mill within the prohibited distance. Earlier, the petitioner has filed a writ petition in W.P No.10767 of 2011 before this Court seeking a Writ of Mandamus to direct the respondents 1 & 2 to close the functioning of the Flour Mill of the 3rd respondent, since the Flour Mill is within the prohibited distance. However, the 2nd respondent passed an order allowing the 3rd respondent Flour Mill, on the ground that it is not situated within the prohibited distance. Not satisfied with the impugned



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order passed by the 2nd respondent, the present writ petition has been filed on the ground that the petitioner should be heard before passing any order.

3. The learned counsel appearing for the 3rd respondent submitted that from 1994 onwards, the 3rd respondent was put into lot of troubles due to filing of various litigations by the petitioner. Initially, the petitioner has filed a suit in O.S No.501 of 1994 against the father of the 3rd respondent for permanent injunction and the same was dismissed by the trial Court on 20.12.1996. Against which, an appeal was preferred by the petitioner in A.S.No.36 of 1997 and the same was also dismissed on 28.09.2001. Challenging the same, the petitioner has preferred a second appeal in S.A.No.1232 of 2002 before this Court and the same was disposed of with a liberty to the 3rd respondent's father to effect necessary alteration as directed by the trial Court. Accordingly, on 30.04.2003, the father of the 3rd respondent purchased the adjacent shop bearing Door No.92, Bazaar Street and annexed the same and relocated the machineries beyond the prohibited distance. Again, on 01.03.2004, the petitioner has given another representation on 01.03.2004 and the 1st respondent herein had inspected the site and stated that the machineries of the 3rd respondent were erected



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within the prohibited distance. Thereafter, again the petitioner filed a writ petition in W.P No.39338 of 2004 and this Court had dismissed the same holding that after proper verification and inspection, the order has been passed by the authorities concerned. Challenging the same, the petitioner has filed another writ petition in W.P. No.9923 of 2008 to consider his representation dated 02.01.2008 and this Court has also directed the authorities concerned to consider the said representation by an order dated 23.04.2008. Again, another writ petition in W.P No.7930 of 2009 was filed restraining the respondents from installing of machineries by the 3rd respondent and the above writ petition was also dismissed. Subsequently, another writ petition in W.P.10767 of 2011 was filed and it was also disposed of. Now, the petitioner has filed this writ petition for the very same relief, which is not maintainable in law and it is an abuse of process of court.

4. I have perused the entire materials on record.

5. The facts narrated in the counter is not disputed by the petitioner and it is clearly indicated that the repeated writ petitions have been filed by



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the petitioner to consider his representation. Though initially the Flour Mill was situated within the prohibited distance, it appears that after legal battle, the 3rd respondent has purchased the neighbour shop and moved the machineries beyond the prohibited distance. Based on the same, particularly on the basis of the inspection and measurement, the 2nd respondent has rejected the representation and thereby passed an order. Once again, the petitioner has filed this writ petition seeking for the similar relief. Hence, this Court is of the view that the repeated filing of the writ petitions by the petitioner to consider the representation to achieve indirectly what he cannot be achieved directly is nothing, but it is an abuse of process of law and the present writ petition deserves to be dismissed.

6. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No

Web: Yes/No

Speaking/Non Speaking

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To,

1. The Assistant Director
Town Panchyat
Vellore Zone,
Vellore-9.
2. The Executive Officer
Town Panchayat
Kanamangalam
Tiruvannamalai District



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N.SATHISH KUMAR, J.

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