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W.P.No.8834 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2022

CORAM :
THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Writ Petition No.8834 of 2013

Arulmigu Utharapathiswaraswamy
Temple, Thiruchengattangudy by its
Hereditary Trustee and Velakurichi
Adheenakartha of Velakurichi
Adheenam, Thirupugalur.

... Petitioner

Vs.

1.The District Collector,
Nagapattinam District,
Nagapattinam.

2.The Block Development Officer,
Panchayat Union,
Thirumarugal,
Nagapattinam District.

3.M.Pannerselvam

4.K.Baskar

(R3 & R4 are impleaded as per order dated 09.11.2016 by MSRJ in
W.M.P.No.33516 of 2016)

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India,
praying for issuance of Writ of Mandamus, directing the respondents to
dispose of the representation given to the respondents dated 21.03.2013 and



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thereby follow the G.O.Ms.No.46 Rural Development and Panchayat Raj (SG SI) Department dated 17.08.2011 and to put up construction after proper verification and affording opportunity to the petitioner.

For Petitioner : Mr.A.Nixon

For Respondent 1 : Mr.D.Ravichander,
Special Government Pleader

For Respondent 2 : M/s.K.Bhuvaneswari

ORDER

The petitioner has filed this petition seeking direction to the respondents to dispose of the petitioner's representation dated 21.03.2013 and thereby follow the G.O.Ms.No.46 Rural Development and Panchayat Raj (SG SI) Department dated 17.08.2011 and put-up construction after proper verification and affording opportunity to the petitioner.

2. Since no adverse order is being passed against the respondents 3 and 4, notice to respondents 3 and 4 is dispensed with.

3. The case of the petitioner is that the property in Survey No.102/3,



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ad-measuring an extent of 5 hectares ad 30 Ares and Survey No.105/06, ad-measuring an extent of 0.34.5 Ares was originally owned by petitioner temple and the same was used for cultivating paddy and grams. This being so, for construction of Solar Power Green Houses under Chief Minister's Solar Power Green House Scheme, the Government of Tamil Nadu has passed a G.O.Ms.No.46 Rural Development and Panchayat Raj (SG SI) Department dated 17.08.2011. As per the guidelines annexed in the said Government Order, the beneficiaries should reside within the village panchayat and own a site of land not less than 300 sq.ft and owns a clear patta for the site/house. Moreover, the beneficiaries should not own any pucca concrete house in the village or elsewhere. In the present case on hand, the second respondent has instructed the first respondent to construct a Solar Green Houses in the petitioner's temple wet (Nanjai) land, which is not a beneficiary of the said Government Order. In order to stop the construction, the petitioner's temple has sent a telegraphic representation dated 21.03.2013 to the respondents 1 and 2. But till now the representation was not considered by the respondents 1 and 2. Hence, the present Writ Petition.



4. Though very many grounds have been raised in this Writ Petition, learned counsel for the petitioner submitted that, it would suffice, if this Court issues direction to the respondents to consider the petitioner's representation dated 21.03.2013 and pass orders on merits within a particular time frame to be fixed by this Court.

5. The learned Special Government Pleader appearing for the respondents has no objection for said order being passed.

6. Heard the learned counsel on either side and perused the materials placed on record.

7. Taking into consideration the factual aspects of the matter, this Court without going into the merits of the case, directs respondents 1 and 2 to consider the petitioner's representation dated 21.03.2013 and pass appropriate orders on merits and in accordance with law, after affording an opportunity of hearing to the petitioner as well as aggrieved persons if any, including the respondents 3 and 4, within a period of twelve weeks from the date of receipt



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of a copy of this order. If any such encroachment is made in respect of the subject property, the first respondent is directed to take appropriate action against the said encroachers.

8. With the above observation and direction, this Writ Petition is disposed of. No costs.

14.09.2022

vm

Index : Yes/No

Speaking Order : Yes/No

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