



W.P.(MD).No.24664 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.10.2022

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.(MD).No.24664 of 2022

D.Balakumar

... Petitioner

vs.

The District Collector,
Madurai,
Madurai District.

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent to consider his appeal petition dated 09.07.2022 pending for numbering on his and to number his memorandum of appeal and also to dispose the same at the earliest by fixing the time frame that may be fixed by this Court.

For Petitioner : Mr.C.M.Arumugam

For Respondent : Ms.K.Christy Theboral

Additional Government Pleader



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ORDER

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This Writ Petition has been filed for issuance of a Writ of Mandamus, directing the respondent to consider his appeal petition dated 09.07.2022, pending for numbering and to number his memorandum of appeal and also to dispose the same at the earliest.

2. The writ petitioner failed successfully before the civil Court in O.S.No.15 of 2004, A.S.No.9 of 2016 on the file of Subordinate Court, Madurai, S.A.No.360 of 2019 which was dismissed on 21.08.2019 and S.L.P.(C)No.85 of 2020 was dismissed on 27.01.2020. In O.S.No.15 of 2004, E.P.No.126 of 2019 was filed and on 26.03.2021, the Village Administrative Office and Surveyor were directed to take appropriate action. On issuance of summon by the Additional District Munsif Court, Madurai, the Revenue Officials have proceeded further and removed all the encroachments according to the judgment and decree. The petitioner herein given a complaint to the authorities concerned stating that without even following the due procedures, all of a sudden, the authorities concerned without measuring the property removed the wall as if the same was under encroachment. In spite of several requests made to measure the petitioner's property, the same was not considered.



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3. Further, on 15.02.2022 and 28.02.2022, the petitioner sent a complaint to the respondent to take necessary action against the erred officials, who were illegally removed the alleged encroachment. The said complaint was forwarded to the Revenue Divisional Officer to conduct enquiry and to conclude the proceedings. Based on that, on 04.04.2022, the Revenue Divisional Officer issued summon to the petitioner to appear for enquiry on 12.04.2022 with relevant documents. Further, on 12.04.2022, he appeared before him with relevant documents and explained the facts and the erred officials were also appeared before the R.D.O., and gave a statement. After receiving the statements, the R.D.O has passed an order in favour of the erred officials and the complaint preferred by the petitioner was dismissed. Aggrieved over the same, he preferred an appeal before the respondent on 05.07.2022 through registered post and sent through post on 09.07.2022, to take necessary action against the officials. The respondent has not at all taken any steps to number the appeal petition and also failed to take steps on the petitioner's appeal. Hence, the petitioner has filed the present writ petition.



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4. The learned Additional Government Pleader appearing for the respondent would submit that all the actions of the revenue officials only due to the direction issued by the civil Court in E.P.No.126 of 2019 and the appeal suit, second appeal and the SLP were dismissed. The petitioner has also given an undertaking before this Court in C.R.P. (MD).No.247 of 2021 that since the encroached portion is southern wall of their two storey house and hence, it requires the Engineer to remove it without any collateral damage to the entire building. Therefore, he sought another two weeks time to comply with the order of the Court. The said undertaking is not obeyed by the petitioner in letter and spirit. Therefore, the Civil Revision Petition is dismissed and the order passed by the District Munsif Court was confirmed by the High Court. Accordingly, the Surveyor and the other revenue officials removed the encroachment.

5. Considering the above said submissions, this Court is of the view that only on the direction issued by the District Munsif Court, Madurai, the revenue officials have removed the encroachment of the petitioner and the petitioner has failed in all the appellate Courts and in the revision petition, he has also given an undertaking that he will



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remove the encroachment. Now, the petitioner has filed an appeal before the respondent stating that all the authorities are influenced by the plaintiff and after getting money as bribe, they have acted in favour of the plaintiff and illegally removed the wall of the writ petitioner. He has also given so many complaints before the police officials and without following any rules and regulations, no authority will interfere in this kind of matters. In the month of August 2022, in Na.Ka.No. 8757/2022/paa1, the Collector has rejected the appeal and the petitioner submits that no opportunity was given to him while considering the same. Hence, he seeks this Court's indulgence to direct the District Collector, Madurai to pass orders, after giving an opportunity as there is a violation of principles of natural justice. Whether the said order was received by the petitioner is not known and if the petitioner is aggrieved by the order, it is left open to the petitioner to challenge the same, in the manner known to law.

6. In the result, this Writ Petition is dismissed. No costs.

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Internet:Yes/No
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To

The District Collector,
Madurai,
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V.BHAVANI SUBBAROYAN,J.

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