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W.P. No.18246 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.06.2023

CORAM:

THE HON'BLE MR. JUSTICE S. VAIDYANATHAN

and

THE HON'BLE MR. JUSTICE K. RAJASEKAR

W.P. No.18246 of 2023 & C.M.P. No.11216 of 2023

K.P. Magendran

Petitioner

v

- 1 The District Collector
Office of the District Collector
Namakkal District - 637 003
- 2 The District Revenue Officer
Office of the District Collector
Namakkal District
- 3 The Tahsildar
Tiruchengode Taluk
Namakkal District
- 4 The Village Administrative Officer
Patlur
Goundampalayam
Tiruchengode Taluk
Namakkal District
- 5 B. Sumathi
- 6 Kamalsekaran

Respondents



W.P. No.18246 of 2023

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the third respondent to act upon the recommendation dated 17.04.2023 in Na.Ka.No.29212/23/L5 forwarded by the first respondent and remove the encroachment made by the private respondents, after conducting proper enquiry on the representation dated 24.03.2023 and reminder representation dated 15.05.2023 made by the petitioner.

For petitioner	Mr. A. Rajakumar
For RR 1 & 2	Mr. J. Ravindran Addl. Solicitor General (Liaisoning) assisted by Mr. A. Selvendran Special Government Pleader
For RR 3 & 4	Mr. P. Muthukumar State Government Pleader

ORDER

This public interest litigation has been filed seeking a writ of mandamus directing the third respondent to act upon the recommendation dated 17.04.2023 forwarded by the first respondent and remove the encroachment made by the private respondents, after conducting proper enquiry on the petitioner's representation dated 24.03.2023 and reminder representation dated 15.05.2023.



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2 At the threshold, it is worth pointing out that the petitioner has already filed W.P. No.29822 of 2019 seeking the same relief as sought in this writ petition. The said writ petition was disposed of by a Coordinate Bench of this Court *vide* order dated 18.10.2019, the relevant portion of which reads thus:

“6. This Court, taking into consideration the facts and circumstances and without going into the merits of the claim projected by the petitioner either in his representation or in this writ petition, directs the 2nd respondent to cause inspection of the lands in S.Nos.408/9 and 408/13 after putting the petitioner and the private respondents and other person/s concerned, on notice and in the event of any encroachment being found on the public land, shall take appropriate action in accordance with law and complete the said exercise within a period of ten weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner; private respondents and also to the person/s concerned.”

3 According to the learned counsel for the petitioner, since, albeit the above order passed by this Court, no action has been taken, the petitioner has been forced to approach this Court again.

4 Mr. P. Muthukumar, learned State Government Pleader submitted that the land in question is a natham land and a decision will be taken as per the aforesaid order dated 18.10.2019 passed by this Court and that the instant writ petition is hit by *res judicata*.



5

It is not in dispute that seeking the same relief, the petitioner had approached this Court by filing W.P. No.29822 of 2019, wherein, without going into the merits of the case, this Court had directed removal of encroachment, if any. In such perspective of the matter, this Court is not inclined to grant the relief sought in this writ petition. However, it is made clear that it is open to the petitioner to file a contempt petition in the event of the order dated 18.10.2019 not being complied with, as the period of limitation for filing a contempt petition under Section 20 of the Contempt of Courts Act, cannot be insisted upon, since, as per the judgment of the Apex Court in **Suraz India Trust v Union of India**¹, the powers of this Court under Article 215 of the Constitution of India, cannot be curtailed by Section 20 of the Contempt of Courts Act. In case, no action has been initiated by the authorities, thus far, we expect the officials concerned to initiate disciplinary action against those who had not acted upon, pursuant to the order dated 18.10.2019 passed by this Court, for major misconduct, within a fortnight from the date of receipt of a copy of this order and bring the disciplinary proceedings to its logical end and send a report to the Registrar General of this Court, as to the action taken. It is made clear that till the disciplinary proceedings is over, no terminal benefits, including Gratuity, shall be given.



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With the above observations, this writ petition stands closed without there being any order as to costs.

(S.V.N., J.) (K.R.S., J.)
22.06.2023

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S. VAIDYANATHAN, J.

and

K. RAJASEKAR, J.

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