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W.P.No.22428 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.10.2023

CORAM

**THE HONOURABLE Mrs.JUSTICE J.NISHA BANU
and
THE HONOURABLE Mrs.JUSTICE N.MALA**

**W.P.Nos.22428 of 2023, 4035, 4043, 4055, 4068 & 4072 of 2020
and
WMP.Nos.21841 of 2023, 4768, 4776, 4778, 4790, 4794, 4808, 4810,
4813 & 4815 of 2020**

W.P.No.22428 of 2023

J.Y.Venkatesh

...Petitioner

VS

- 1.State Rep. by
The Additional Chief Secretary to Government,
Revenue and Disaster Management,
Secretariat,
Chennai – 600 009.
- 2.The Special Secretary to Government,
Public (HR) Department,
Secretariat,
Chennai – 600 009.
- 3.The State Human Rights Commission,
Tamil Nadu,
No.143, P.S.Kumarasamy Raja Salai,
Greenways Road,



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Chennai – 600 028.

4.P.Senthikumar,
Tahsildar,
Hosur T.K.,
Krishnagiri District.

5.C.Raja,
Head Surveyor,
Hosur T.K.,
Krishnagiri District.

6.R.Muthupandi,
The Special Tahsildar (Land Bank) SIPCOT,
Formerly Special Tahsildar,
Hosur T.K.,
Krishnagiri District.

7.G.Boosanakumar,
The District Adi Dravidar and Tribal Welfare Officer,
Tiruvarur District Formerly Tahsildar,
Hosur,
Krishnagiri District.

8.S.Shanthi,
The District Revenue Officer,
Krishnagiri District.

.... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution to issue a Writ of Mandamus, to direct the respondents 1 and 2 to implement the recommendations made in S.H.R.C.No.1448 of 2019 dated 20.12.2019 by the 3rd respondent and to initiate departmental actions against the respondents 4 to 8 within the time framed by this Court.

For Petitioner : Mr.K.Gandhi Kumar



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WEB COPY For R1 & R2 : Mr.Stalin Abimanyu
Additional Government Pleader

For R3 : Mr.C.Jayaprakash,
Government Advocate

For R4 to R7 : Mr.R.Bharathkumar

For R8 : Mr.M.Rajasekhar

W.P.No.4035 of 2020

P.Senthil Kumaran ...Petitioner

vs

1.State Human Rights Commission Tamil Nadu,
143, P.S.Kumarasamy Raja Salai,
Greenways Road,
Chennai – 600 028.

2.J.Y.Venkatesh Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution to issue a Writ of Certiorari, to call for the records of the 1st respondent in passing of the order in S.H.R.C.No.1448 of 2019 dated 20.12.2019 and quash.

For Petitioner : Mr.R.Bharat Kumar

For R1 : Mr.A.Edwin Prabakar

For R2 : Mr.Kalyani Kailasam

W.P.No.4043 of 2020



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WEB COPY C.Raja

...Petitioner

VS

1.State Human Rights Commission Tamil Nadu,
143, P.S.Kumarasamy Raja Salai,
Greenways Road,
Chennai – 600 028.

2.J.Y.Venkatesh

.... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution to issue a Writ of Certiorari, to call for the records of the 1st respondent in passing of the order in S.H.R.C.No.1448 of 2019 dated 20.12.2019 and quash.

For Petitioner : Mr.R.Bharat Kumar

For R1 : Mr.A.Edwin Prabakar

For R2 : Mr.Kalyani Kailasam

W.P.No.4055 of 2020

R.Muthupandi

... Petitioner

VS

1.State Human Rights Commission Tamil Nadu,
143, P.S.Kumarasamy Raja Salai,
Greenways Road,
Chennai – 600 028.



W.P.No.22428 of 2023

2.J.Y.Venkatesh

... Respondents

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PRAYER: Writ Petition filed under Article 226 of the Constitution to issue a Writ of Certiorari, to call for the records of the 1st respondent in passing of the order in S.H.R.C.No.1448 of 2019 dated 20.12.2019 and quash.

For Petitioner : Mr.R.Bharat Kumar

For R1 : Mr.A.Edwin Prabakar

For R2 : Mr.Kalyani Kailasam

W.P.No.4068 of 2020

G.Boosanakumar

... Petitioner

vs

1.State Human Rights Commission Tamil Nadu,
143, P.S.Kumarasamy Raja Salai,
Greenways Road,
Chennai – 600 028.

2.J.Y.Venkatesh

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution to issue a Writ of Certiorari, to call for the records of the 1st respondent in passing of the order in S.H.R.C.No.1448 of 2019 dated 20.12.2019 and quash.

For Petitioner : Mr.R.Bharat Kumar

For R1 : Mr.A.Edwin Prabakar

For R2 : Mr.Kalyani Kailasam



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WEB COPY **W.P.No.4072 of 2020**

Tmt.S.Shanthi

... Petitioner

vs

1.State Human Rights Commission Tamil Nadu,
143, P.S.Kumarasamy Raja Salai,
Greenways Road,
Chennai – 600 028.

2.J.Y.Venkatesh

.... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution to issue a Writ of Certiorari, to call for the records of the 1st respondent in passing of the order in S.H.R.C.No.1448 of 2019 dated 20.12.2019 and quash.

For Petitioner : Mr.M.Rajasekhar

For R1 : Mr.A.Edwin Prabakar

For R2 : Mr.Kalyani Kailasam

* * * * *

COMMON ORDER

[Order of the Court was made by N.MALA,J.]

The Writ Petition in W.P.No.22428 of 2023 is filed to direct the respondents 1 and 2 to implement the recommendations made in S.H.R.C.No.1448 of 2019 dated 20.12.2019 by the 3rd respondent and to



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initiate departmental action against the respondents 4 to 8 within the time framed by this Court.

2.The Writ Petitions in W.P.No.4035, 4043, 4055, 4068 and 4072 of 2020 are filed to call for the records of the 3rd respondent in the order dated 20.12.2019 in S.H.R.C.No.1448 of 2019 and quash the same.

3.The petitioner in W.P.No.22428 of 2023 will be referred to as the petitioner and the respondents therein shall be referred to as the respondents. As all the writ petitions arise out of the order dated 20.12.2019 in S.H.R.C.No.1448 of 2019 the same are disposed of by this common order.

4.The petitioner/complainant is a resident and owner of the property in Survey No.53/1, Kagganur Village, Hosur Taluk, Krishnagiri District. The petitioner petitioned the 4th and 5th respondents to conduct the survey of his property. As the respondents 4th and 5th failed to comply with the petitioner's request, he approached the District Revenue Officer, Krishnagiri, the 8th respondent herein. In spite of 8th respondent's direction the 4th and 5th respondents failed to carry out the survey. The petitioner filed the suit in



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O.S.No.346 of 1986 on the file of the District Munsif Court, Hosur and got a decree in his favour. The petitioner filed an Execution Petition in E.P.No.02 of 2006 on the file of the District Munsif, Hosur, which was dismissed for default. The petitioner thereafter filed a Civil Revision Petition in C.R.P.No.3454 of 2009, against the dismissal order passed in E.P.No.02 of 2006. This Court vide the order dated 05.08.2003 held that the petitioner was entitled to enjoy the suit property as per the decree granted by the trial Court on 20.11.1998.

5.According to the petitioner, the 8th respondent instructed the 3rd respondent to survey the entire extent of the land in Survey No.53/1 and also the extent of land encroached by the said persons and to submit a report. As the respondents failed to comply with the instruction of the 8th respondent, the petitioner filed the complaint against the 4th to 6th respondents for violation of the human rights before the National Human Rights Commission, Delhi and it was transferred to the State Human Rights Commission, Chennai.

6.The 4th to 7th respondents filed their counter before the State Human Rights Commission denying the petitioner's allegation of violation of human



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rights. It was stated inter alia, that as the suit in O.S.No.141 of 2016 on the file of the District Munsif Court, Hosur filed by one Prakash against the petitioner and others was pending and as per the circular issued in pursuance of the order passed by this Court in W.P.No.9215 of 2013, the respondents could not take further proceedings for issuance of patta.

7.The State Human Rights Commission on the basis of the materials on record passed the following order:

RECOMMENDATION

“(i) The Government of Tamil Nadu shall pay a compensation of Rs.5,00,000/- (Rupees Five lakhs only) to the complainant within four weeks from the date of receipt of this order;

(ii) The Government of Tamil Nadu shall recover the said sum of Rs.5,00,000/- (Rupees five lakhs only) from the respondents viz., Rs.2,00,000/- from the 1st respondent Thiru.P.Senthilkumar, Rs.2,00,000/- from



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the 2nd respondent Thiru.C.Raja and rs.1,00,000/- from the 3rd respondent Thiru.R.Muthupandi subsequently as per the rules and regulations; and

(iii) The Government of Tamil Nadu shall also be proceeded disciplinary action against all the 3 respondents and the then Tahsildar, Hosur Taluk namely Thiru.G.Booshanakumar and the District Revenue Officer, Krishnagiri namely Tmt.S.Shanthi.”

8.As the respondents failed to implement the order of the State Human Rights Commission, the petitioner filed the writ petition in W.P.No.22428 of 2023 for implementation of the recommendations and the respondents 4 to 8 filed the writ petitions in W.P.Nos.4035, 4043, 4055, 4068 & 4072 of 2020 challenging the order dated 20.12.2019 of the State Human Rights Commission in SHRC.No.1448 of 2019 recommending the Government to recover the compensation amount from the respondents 4 to 6 and for disciplinary action against the respondents 4 to 8.



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9.The learned counsel for the petitioner submitted that in spite of the Judgment and Decree in his favour in O.S.No.346 of 1986 and the order passed in C.R.P.(NPD).No.3454 of 2009, the respondents failed to survey the petitioner's land and issue separate patta to him, and so the petitioner was constrained to file a complaint before the State Human Rights Commission for violation of his human rights. The learned counsel further submitted that the State Human Rights Commission on appreciation of entire evidence and on the materials placed on record found that the respondents had violated the petitioner's human rights and awarded a compensation of Rs.5,00,000/-. The learned counsel submitted that as the respondents failed to implement the order, he was constrained to move this Court.

10.On the other hand the learned Additional Government Pleader and the Government Advocate for the respondents relying on the counter in W.P.No.22428 of 2023 and the affidavits filed in support of the writ petitions filed by the respondents 4 to 8 submitted that the issue projected by the writ petitioner before the State Human Rights Commission was purely a



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civil dispute among the owners of private property and hence, the State Human Rights Commission had no power or authority to adjudicate the same. The learned counsel for the 7th and 8th respondents submitted that in so far as the 7th and 8th respondents are concerned the order was unsustainable in as much as they were not made parties to the complaint and not even heard before passing adverse orders against them. The learned counsel further submitted that there was violation of the principles of natural justice in so far as the 7th and 8th respondents were concerned and hence the writ petitions filed by the 7th and 8th respondents were to be allowed and the writ petition in W.P.No.22428 of 2023 filed by the petitioner deserved to be dismissed.

11.It was submitted by the learned counsel for respondents 4 to 8 that under Regulation 9 (j) of the State Human Rights Commission, Tamil Nadu (Procedure) Regulations, 1997, the State Human Rights Commission had no jurisdiction to entertain the complaint. The learned counsel for the respondents further submitted that the very same commission in similar matter with reference to a similar complaint by the very same petitioner in 10594/22/48/2021/OC vide order dated 03.04.2023 rejected the complaint



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stating that the complaint was not entertainable under Regulation 9(d); and Regulation 9(j) of the State Human Rights Commission, Tamil Nadu (Procedure) Regulations, 1997. The learned counsel therefore submitted that absolutely there were no merits in the complainant's writ petition and the same deserved to be dismissed, whereas the writ petition of the respondents 4 to 8 deserved to be allowed. The learned counsel for the respondents 4 to 7 relied on the Judgments of the Hon'ble Supreme Court in the cases of ***G.Manikyamma and others Vs. Roudri Cooperative Housing Society Limited and Others*** reported in ***2014 (15) SCC 197*** and ***Uma Nath Pandey and Others Vs. State of U.P. and another*** reported in ***2009 (2) CTC 663*** in support of their aforesaid contentions.

12.We have heard all the learned counsels and we have perused the materials on record.

13.The petitioner obtained a declaratory and permanent injunction decree in O.S.No.346 of 1986 for the lands in Survey No.53/1 measuring to an extent of 0.95 acres. Soon after the decree, the petitioner applied for



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separate patta, which was rejected by the Assistant Collector, Hosur on 27.12.2004 with a direction to get separate possession through Court of Law and thereafter apply for Sub Division Patta. As against the said order the petitioner filed the Revision Petition No.30/2005 under Section 13 of the Tamil Nadu Patta Pass Book Act, 1983 before the District Revenue Officer, Krishnagiri, which was also dismissed on 30.08.2005, confirming the order of the Sub Collector, Hosur. The petitioner did not challenge the said orders and hence the same attained finality. The petitioner filed the Execution Petition in E.P.No.02/2006 to execute the decree for permanent injunction and the same was dismissed for default on 06.04.2007. The petitioner thereafter preferred a revision in C.R.P.(NPD).No.3454 of 2009, which was allowed by this Court on 05.08.2013. The defendants 2 and 4 in O.S.No.346 of 1986 viz., Mr.Munivenkatappa and his brother Prakash filed a suit in O.S.No.141 of 2016 and one other person Miss.M.Sumanna filed a suit in O.S.No.171 of 2016 against the writ petitioner which suits are pending adjudication. While so, the petitioner preferred an application on 07.08.2017 to the District Revenue Officer, Krishnagiri, for surveying his land. The District Revenue Officer issued a memo dated 30.08.2017, directing the Tahsildar, Hosur to conduct the survey and send a report to



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him. The petitioner thereafter filed a writ petition in W.P.No.27909 of 2017 for a direction to the Tahsildar, Hosur to act on the memo dated 30.08.2017 of the District Revenue Officer. In the said writ petition, this Court vide order dated 01.11.2017 directed the Tahsildar, Hosur to consider the petitioner's claim and pass orders on merits and in accordance with law, within the period stipulated therein. Based on the direction issued in the said writ petition, the Tahsildar passed an order on 22.01.2018 rejecting the claim of the petitioner on the ground that the civil suits were pending and that the grievance of the petitioner would be considered after the decision in the civil suits. It is pertinent to mention here that this Court vide order dated 23.10.2017 in W.P.No.9215 of 2013, ordered that the Revenue Officers shall not adjudicate the title disputes between the parties and shall not pass any orders in respect of grant of patta, cancellation of patta or for modification of patta etc., and directed the Commissioner of Land Acquisition to issue necessary circular to the Revenue Officers in this regard. Based on the aforesaid order of this Court, the Commissioner of Land Acquisition issued a circular on 13.03.2018 and one of the directions in the circular was that if any interested party brought to the notice of the concerned authority, the pendency of any suit over the disputed land along



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with the authenticated copies of the plaint, the concerned authority shall not pass orders. The Revenue authorities were directed to refer the parties concerned to approach the Civil Court in the pending suit and thereafter approach the authorities on the basis of the Judgment and the decree of the civil suit. As the petitioner's claim was rejected by the Tahsildar, the petitioner filed a contempt petition in Cont.P.No.2333 of 2018 before this Court, which was closed on 22.01.2018 giving liberty to the petitioner to challenge the rejection order. The petitioner challenged the rejection order of the Tahsildar dated 23.01.2018 before the Sub Collector, Hosur invoking the provisions of Tamil Nadu Patta Pass Book Act, 1983 and the same is pending. The petitioner thereafter approached the State Human Rights Commission for the violation of his human rights by the respondents. The State Human Rights Commission vide impugned order directed the respondents to pay compensation to the petitioner and to initiate action against the erring officials.

14.From the facts narrated above, it is clear that the petitioner is involved in several litigations and that two civil suits in O.S.Nos.141 and 171 of 2016 are pending. In O.S.No.141 of 2016 the petitioner and others



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and the official respondents are parties. As per the circular dated 13.03.2018 of the Commissioner of Land Acquisition, the Revenue authorities cannot issue patta during the pendency of the civil suit and also under Regulation 9 (d) and (j) of the State Human Rights Commission Tamil Nadu (Procedure) Regulations 1997, the State Human Rights Commission cannot entertain the complaints relating to civil disputes and when matters are subjudice before a Court. The Hon'ble Supreme Court in the case of G.Manikyamma and Others Vs. Roudri Cooperative Housing Society Limited and Others reported in 2014 (15) SCC 197. In paragraph Nos.41 and 43 held as follows:

41.In our opinion, the Human Rights Commission does not have any jurisdiction to deal with the disputed questions of title and possession of the property.

43.....P.T.Munichikkanna Reddy case⁶ is not an authority for the proposition that the Human Rights Commission either National or State constituted under the Protection of Human Rights Act, 1993 are



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competent to adjudicate upon the disputed question of title and possession.”

15.The Commission without examining the circular of the Commissioner of Land Acquisition, which was issued in pursuance of the order dated 23.10.2017 passed in W.P.No.9215 of 2013 and also without taking into consideration the pendency of the civil suits held that the respondents failed to do their duty. In our view, the finding of the Commission is erroneous and unsustainable. In the light of the above discussions, we are of the view that there is absolutely no violation of the petitioner's human rights by the respondents 4 to 8, in as much as the respondents 4 to 8 discharged their lawful duty and in compliance with the circular issued by the Commissioner of Land Acquisition.

16.As far as the writ petitions filed by the respondents 7 and 8 are concerned. It is seen that the 7th and 8th respondents were not made parties to the complaint before the State Human Rights Commission. The State Human Rights Commission without even hearing the 7th and 8th respondents passed the recommendation directing disciplinary action against them. If the State Human Rights Commission was inclined to pass adverse orders against



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the 7th and 8th respondents it should have heard them before passing the orders. The recommendation of the State Human Rights Commission against the 7th and 8th respondents has civil consequences and therefore, we are of the view that the commission should have given an opportunity to the 7th and 8th respondents to present their defence before passing the adverse orders. In this regard, the Judgment of the Hon'ble Supreme Court in the case of Uma Nath Pandey and Others Vs. State of U.P. And another reported in 2009 (2) CTC 663 relied on by the learned counsel for the 7th and 8th respondents can be usefully referred to. The said Judgment elaborately deals with the principles of natural justice in judicial proceedings including quasi-judicial and administrative proceedings and the meaning of the expression civil consequences. In our view, the relevant paragraph no.10 will be applicable to the facts of the present case and the same is as follows:

“10.principles of natural justice are those rules which has been laid down by the Courts as being the minimum protection of the rights of the individual against the arbitrary procedure that may be adopted by a judicial quasi-judicial and administrative authority



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while making an order affecting those rights. These rules are intended to prevent such authority from doing injustice.”

17. We also find that the petitioner has suppressed material facts in the writ petition which are brought to light in the counter filed by the respondents 4 to 7. The petitioner soon after obtaining the decree in O.S.No.346 of 1986 on 20.11.1998, approached the Revenue officers for grant of separate patta which was rejected by the Assistant Collector, Hosur on 27.12.2004 and thereafter the said order was confirmed in appeal by the District Revenue Officer on 30.08.2005. In the said order, the writ petitioner was instructed to get separate possession through Court of Law and thereafter to apply for Sub Division Patta. The petitioner did not challenge the said orders, which attained finality. The said fact was suppressed by the writ petitioner and therefore, we find that the writ petitioner is guilty of suppression of facts and as such has approached the Court within unclean hands. The writ petition deserves to be rejected on this short ground also.



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18.As rightly pointed out by the learned counsel for the 7th and 8th respondents it is strange that the very same Presiding Officer with respect to the very same complainant i.e. the writ petitioner in W.P.No.22428 of 2023 rejected the complaint on 03.04.2023 stating that the subject matter was beyond the purview of the State Human Rights Commission as per Regulations 9 (d) and 9 (j) of the State Human Rights Commission, Tamil Nadu (Procedure) Regulations, 1997. We are not able to fathom as to why the commission took such inconsistent views with respect to the very same complainant.

19.We therefore find no merits in the writ petition filed by the petitioner in W.P.No.22428 of 2023 and the same is dismissed. The writ petition filed by the respondent Nos.4 to 8 are allowed. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

(J.N.B.,J.)

(N.M.,J.)

10.10.2023

Index:Yes/No

Internet : Yes/No



W.P.No.22428 of 2023

Speaking/Non-speaking order
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To

- 1.State Rep. by
The Additional Chief Secretary to Government,
Revenue and Disaster Management,
Secretariat,
Chennai – 600 009.
- 2.The Special Secretary to Government,
Public (HR) Department,
Secretariat,
Chennai – 600 009.
- 3.The State Human Rights Commission,
Tamil Nadu,
No.143, P.S.Kumarasamy Raja Salai,
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J.NISHA BANU,J.
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