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W.P.No.29176 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2023

CORAM :

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Petition No.29176 of 2018
and
WMP No. 39101 of 2018

B. Dillibabu

.. Petitioner

Versus

1. The Hon'ble Secretary
Revenue Department
Government of Tamil Nadu
Fort St. George, Chennai - 600 009

2. The District Collector
Office of District Collector
Chennai District

3. K. Mala

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 and 2 to dispose the representation dated 09.04.2018 submitted by the petitioner to dispose of the revision of the 3rd respondent at the earliest and remove the encroachment on the government land.

For Petitioner

: Mr. Alagu Narayanan
for M/s. RRN Legal



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For R1&R2

: Mr. A. Selvendran
Special Government Pleader

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ORDER

(Order of the Court was made by R. MAHADEVAN, J.)

This writ petition has been filed by the petitioner to issue a Writ of Mandamus directing the first respondent to pass orders on his representation dated 09.04.2018 to dispose of the revision filed by the 3rd respondent on 07.08.2017 at the earliest and consequently remove the encroachment made by her in the government land.

2. According to the petitioner, he is the absolute owner of the land measuring 5790 sq.ft. bearing Plot Nos. 3 and 4 in S.Nos. 579/1 and 579/2 situated at M.G.R. Nagar, Ayyapakkam, Ambattur. It is further stated that the land in front of the petitioner's plots belongs to Highways Department, which was encroached by certain third parties by putting up shops in an illegal manner and it affects the ingress and egress to his property. The petitioner therefore submitted a representation dated 11.02.2013 to the respondents 1 and 2 for removal of encroachment from the Government land, but the same has not been considered. Therefore, the petitioner sent another representation dated 07.09.2015 to the respondents 1 and 2 reiterating his request for removal of encroachment. In response, notices were issued to the third respondent and



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other occupiers under the Tamil Nadu Land Encroachment Act by the Tahsildar, Ambattur. Aggrieved by the same, the third respondent filed an appeal under Section 10 of the Tamil Nadu Land Encroachments Act, before the second respondent. On receipt of the appeal, the second respondent issued a notice dated 20.10.2015 to the petitioner as well as third respondent for an enquiry on 30.10.2015. Accordingly, the petitioner participated in the enquiry and raised objections for entertaining the appeal filed by the third respondent. After conducting an enquiry, the second respondent passed an order dated 08.05.2017 for removal of the encroachment. Aggrieved by the said order dated 08.05.2017, the third respondent filed a Revision Petition on 07.08.2017 before the first respondent and it is pending. As the revision filed by the third respondent has not been disposed of, the petitioner has come forward with this writ petition.

3. The learned counsel for the petitioner submitted that as against the order dated 08.05.2017 passed by the second respondent, the third respondent filed a Revision before the first respondent on 07.08.2017. During the pendency of the revision, the petitioner filed another Writ Petition No. 25557 of 2017 before this Court to direct the first respondent herein to dispose of the revision petition filed by the third respondent on 07.08.2017. By order



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dated 22.09.2017, this Court directed the first respondent to pass orders on the revision petition filed by the third respondent within ten weeks. In spite of such direction, the first respondent has not passed any order in the revision so far. Therefore, the learned counsel for the petitioner prayed this Court to direct the first respondent to take up the revision petition filed by the third respondent on 07.08.2017 and dispose it on merits.

4. On the above contention, we have heard the learned Special Government Pleader appearing for the respondents 1 and 2 and perused the materials placed.

5. Considering the limited nature of the relief sought herein, this court, without going into the merits of the case, directs the first respondent to consider the representation dated 09.04.2018 of the petitioner, take up the revision petition filed by the third respondent on 07.08.2017 against the order dated 08.05.2017 of the second respondent, and pass appropriate orders, on merits and in accordance with law, after affording an opportunity of hearing to the petitioner, third respondent and other parties, if any, concerned, within a period of eight weeks from the date of receipt of a copy of this order.



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6. With the aforesaid direction, this writ petition stands disposed of.

No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D., J.]

[M.S.Q., J.]

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Index : Yes / No

Internet : Yes / No

av/rsh

To

1. The Secretary,
Revenue Department Government of Tamil Nadu,
Fort St. George, Chennai - 600 009.

2. The District Collector,
Office of District Collector,
Chennai District.



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