



W.P(MD)No.9123 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :10.08.2023

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THE HONOURABLE MR.JUSTICE P.DHANABAL

W.P(MD)No.9123 of 2021

K.Athilakshmi

... Petitioner

-Vs-

1. The District Collector
Virudhunagar District
Virudhunagar
2. The Sub Collector
Sivakasi
Virudhunagar District
3. The Tahsildhar
Vembakottai Taluk
Vembakottai, Virudhunagar District
4. S.Raja Hussain
Special Tahsildhar
Social Security Scheme
Sivakasi, Virudhunagar District

... Respondents

PRAYER:- Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus calling for the records pertain to the impugned order passed by the 1st respondent in Na.Ka.A1/28098/2020 dated 04.03.2021 and quash the same and consequently directing the 1st respondent to accord sanction of prosecution for prosecuting the 4th



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respondent on a private complaint for the offence of illegal gratification committed by him under the Prevention of Corruption Act, 1988.

For Petitioner : Mr.K.Ponraj
For R1to R3 : Mr. R.M.Anbunithi
Additional Public Prosecutor

ORDER

This Writ Petition has been filed seeking for the issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the first respondent in Na.Ka.A1/28098/ 2020 dated 04.03.2021 and quash the same and consequently direct the first respondent to accord sanction of prosecution for prosecuting the fourth respondent on a private complaint for the offence of illegal gratification committed by him under the Prevention of Corruption Act, 1988.

2. According to the petitioner she owned property in 1/31,Keelanmarainadu Village in S.Nos.1566/43,1568(Old S.Nos. 130/1,747-1) to an extent of 97.91sq.meters. The said property was given to her husband by way of settlement deed. After purchasing the land her husband constructed house in the said land in the year 1991 by availing loan from the Tamil Nadu Housing Board. In the year 1991



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the Tahsildhar, Sattur has issued a certificate mentioning the boundaries of the properties that the total extent of the property belongs to her husband. Subsequently the said house was renovated in the year 2010 after getting approval from the concerned village panchayat. With regard to S.No.1566/13 the respondents have issued patta in her favour to an extent of 50.0 sq.metres and for the remaining portion in S.No.1568 the third respondent advised the petitioner to apply before the appropriate authorities i.e., the District Revenue Officer, Virudhunagar District for issuance of patta. Some extent in S.No.1568 in Urani and remaining extent is in natham and the same was enjoyed by the petitioner's sister-in-law's vendor .

3. The petitioner made application to the first respondent/ District Collector on 06.03.2017 seeking grant of patta in her favour and the same was forwarded to the Revenue Divisional Officer, Sattur with a direction to inspect the site and to file a report. In turn the Revenue Divisional Officer, Sattur had directed the Tahsildhar, Vembakottai to inspect the site and file report to the Commissioner of Land Administration, Chennai for taking necessary action through order dated 16.05.2017. Thereafter the third respondent issued notice on 27.09.2017 directing to produce documents. During that time her husband met with an accident and thereby she is unable to



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produce the documents as directed by the respondents. Therefore the third respondent has forwarded his report to the higher authorities dated 07.10.2017 by rejecting the claim and based on the said report the first respondent has passed this rejection order.

4. Against which the petitioner has filed a Writ Petition in W.P(MD) No.19243 of 2019 and the same was ordered on 02.04.2019 with liberty to file a fresh representation before the first respondent and after receipt of the said representation the first respondent has to dispose the same on merits and inaccordance with law. Thereafter the petitioner had sent a representation before the first respondent on 14.05.2019 and the same was forwarded to the third respondent. At that time, the fourth respondent demanded Rs.1,00,000/-. Thereafter her husband Krishnasamy gave Rs.1,00,000/- to the fourth respondent on 12.07.2019 and at the time of giving the said amount one Somu who was working as Revenue Inspector accompanied with the fourth respondent. Even after receipt of money the fourth respondent being not satisfied with the quantum of money had rejected to grant patta and refused to return the money. Challenging the above rejection order the petitioner has preferred an appeal before the Revenue Divisional Officer, Sattur, Virudhunagar District on 18.07.2019.. The Revenue Divisional Officer, Sattur after going through the appeal has



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sent proposal to the Assistant Director (Land Survey) Virudhunagar District dated 13.03.2020, however no final order was passed by the Revenue Divisional Officer, Sattur. Hence she filed a writ petition before this Court in W.P(MD) No.280 of 2021 and this Court also directed to dispose the appeal within a period of eight weeks, however the said appeal is pending.

5.In the meanwhile, fourth respondent was transferred to Watrap Taluk. The petitioner sent repeated notices to the fourth respondent asking him to repay the money. Lastly on 20.10.2020 had sent a complaint through e.mail to the Director of Vigilance and Anti Corruption . Thereafter the same was forwarded to the first respondent for taking necessary action and no action was taken by the first respondent. Hence she has sent a legal notice dated 30.11.2020 and thereafter the first respondent appointed the second respondent as enquiry officer. The second respondent without conducting enquiry closed as enquiry as the complaint is false. Hence the petitioner has filed private complaint before the learned Chief Judicial Magistrate, Srivilliputhur against the fourth respondent and sought for direction to the Deputy Superintendent of Police, Vigilance and Anti Corruption to register a case against the fourth respondent but the private complaint was not numbered, since the sanction of prosecution from



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the competent authority was not obtained. Hence on 29.01.2021 the petitioner filed a petition to the first respondent through his advocate for sanction of prosecution to prosecute the fourth respondent on a private complaint. On 04.03.2021 the first respondent passed impugned order by refusing to grant sanction for prosecution on the ground that the appeal with regard to the patta dispute is pending before the Revenue Divisional Officer, Sattur. Hence she has filed this present petition to quash the order passed by the first respondent.

6. No counter was filed by the respondents.

7. The learned counsel appearing for the petitioner would contend that the petitioner is the owner of some of the property situated in Keelanmarainadu Village for that she approached the fourth respondent for transfer of patta but he refused to grant patta and thereafter he obtained a sum of Rs.1,00,000/- from the petitioner. Even after receipt of the said amount, the fourth respondent refused to grant patta in favour of the petitioner, had rejected the petition of the petitioner. Thereafter she filed appeal before the appropriate authorities and the same is pending for consideration. Already this petitioner filed a writ petition before this Court to dispose the appeal within the stipulated time and this Court also directed the authorities



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to dispose the appeal within a period of eight weeks, but no action was taken. Thereafter she filed private complaint against the first respondent and the same was not numbered for want of sanction of prosecution. Thereafter she has filed a petition before the first respondent for sanction on 29.01.2021 but the first respondent has rejected the same on the ground that appeal is pending, hence she has filed the present petition.

8. The learned Additional Public Prosecutor would contend that there is no truth in the averments made in the affidavit. The official respondents have rejected the claim of the petitioner and thereby in order to wreck vengeance this petitioner has filed the present petition. The petitioner has also filed appeal against the rejection order passed by the respondent and the same is pending. After scrutinizing the application filed by the petitioner, the first respondent has passed the order rejecting the request of the petitioner on the ground that the appeal is still pending, hence the petition is liable to be dismissed.

9. Heard both sides and perused the materials available on record.



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10. On perusal of the record it is observed that already the petitioner has filed a petition before the official respondents for grant of patta in her name and the same was rejected and thereafter she filed appeal and the same is pending. The petitioner filed private complaint before the learned Chief Judicial Magistrate, Srivilliputhur and the same was returned for want of sanction for prosecution. Thereafter the petitioner had filed a petition before the first respondent on 29.01.2021 and the same was rejected by the first respondent on the ground that appeal is pending. On perusal of the record it appears that already this Court had directed the respondents to dispose the appeal within a period of eight weeks vide order dated 11.01.2021. The petitioner has not taken any steps as against the official respondent who disobeyed the order of this Court. Thereafter filed private complaint and then filed a petition before the District Collector for sanction for prosecution. As far as sanction of prosecution is concerned the sanctioning authority has to verify all the materials before accord of sanction for prosecution as against the officials. The allegation as against the officer is that he obtained Rs.1,00,000/- from the petitioner for granting patta, but after receipt of money patta was not granted and money was also not repaid. It is admitted fact that the order passed by the officer is under challenge in appeal and the same is pending. The first respondent also correctly



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observed that since appeal is pending the representation of the petitioner cannot be considered. Therefore this Court has no warrant to interference with the order passed by the respondent . At the same time the petitioner is at liberty to take action as against the erring officials for non- disposal of the appeal as directed by this Court. The petitioner is at liberty to approach the first respondent after disposal of the appeal.

11. With the above observation and direction, the Writ Petition stands disposed of. No costs.

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Index : Yes/No
Internet : Yes/No
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To

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Virudhunagar
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Sivakasi
Virudhunagar District
3. The Tahsildhar
Vembakottai Taluk
Vembakottai, Virudhunagar District
4. The Additional Public Prosecutor
Madurai Bench of Madras High Court,
Madurai



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P.DHANABAL, J.

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