



W.P(MD)No.13148 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.13148 of 2023

and

W.M.P(MD)No.11123 of 2023

Kandeepan

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Palani,
Dindigul District.

2.The Tashildar
Oddanchatram Taluk,
Dindigul District.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records relating to the impugned order of the first respondent through his proceedings in Na.Ka.4071/2023/A7 dated 08.05.2023 and quash the same.



W.P(MD)No.13148 of 2023

For Petitioner : Mr.D.Venkatesh

For Respondents : Mr.R.Ragavendran
Government Advocate

ORDER

The Writ Petition has been filed in the nature of a Certiorari seeking a records relating to an order passed by the first respondent/ Revenue Divisional Officer in Na.Ka.No.4071/2023/A7, dated 08.05.2023.

2. In the affidavit filed in support of the writ petition, it had been stated that in the eastern boundary of the land of the property of the petitioner, there is a water-body called “Nallathangal Odai”. The bund of the said Odai forms the eastern boundary of the lands of the petitioner which is in patta No.1240 and in Survey No.77/3 at Manjanaickenpatti Village, Oddanchatram Taluk, Dindigul District. It had been further stated that during the rainy season, the depth of the Odai had decreased due to formation of clay called “Saralai Sand”. To avoid flow of water and clay into the lands of the petitioner, the petitioner had taken a



W.P(MD)No.13148 of 2023

decision to increase the depth of the Odai by digging the clay formed in the pathway at his own costs. He also placed the excess clay on the bund of the Odai. This activity of the petitioner was informed to the respondents and after making a spot inspection, the first respondent had passed the impugned order, wherein, he has imposed a fine of Rs.2,78,950/- (Rupees Two Lakhs Seventy Eight Thousand Nine Hundred and Fifty only) on the petitioner herein. The Writ Petition has been filed questioning that particular order.

3. The learned counsel for the petitioner stated that no enquiry was conducted, no opportunity was given to the petitioner to explain that only the excess clay was actually put by the petitioner on the bund and that he had not taken away the clay either for personal use or for commercial use which could be categorized as unauthorised removal of clay.

4. The learned counsel further stated that if opportunity had been granted, the petitioner could have explained all these facts. It was only to deepen the Odai that the clay was removed and put on the bund



W.P(MD)No.13148 of 2023

of the Odai itself. The order impugned is challenged on all these grounds by the petitioner.

5. The learned Government Advocate who had entered appearance on behalf of the respondents however, disputed these facts. Photographs have also been produced before this Court which shows Government Officials inspecting the said place. It is, therefore, contended that the inspection was done in an open manner and the petitioner could have always participated in the same. It is stated that the allegation that there was no opportunity was granted is not correct and the petitioner should also have taken necessary precaution to participate during the inspection conducted by the respondents. It is also seen that as against the order of the first respondent, an appeal provision is available before the District Collector. The period for such filing of appeal is 30 days. The order was passed on 08.05.2023.

6. The learned counsel for the petitioner stated that the order copy was however, served after much delay to the petitioner herein.



W.P(MD)No.13148 of 2023

WEB COPY

7. A direction is given to the petitioner herein to prefer an appeal as provided before the District Collector, Dindigul District. Such appeal should be filed on or before **16.06.2023**. If such appeal is filed on or before 16.06.2023, then the issue of limitation should not be put against the petitioner herein. The petitioner may raise all grounds before the District Collector including the averment that opportunity of hearing was not given to the petitioner herein.

8. A further direction is given to the District Collector, Dindigul District, to call for the records and examine the same and thereafter, come to personal satisfaction about issuance of notice and granting of opportunity to the petitioner herein. If it is found that proper opportunity was not granted, the District Collector can very well remand the matter back to the Original Authority namely, the first respondent. It is an issue which has to be decided by the District Collector alone.

9. With respect to the imposition of fine, let the District Collector on the basis of records take a decision whether opportunity was granted to the petitioner. If the District Collector comes to a conclusion



W.P(MD)No.13148 of 2023

that opportunity was granted then, as a condition he should insist the petitioner to pay the fine. If he finds on the basis of records opportunity was not granted to the petitioner by the first respondent then, since the matter is directed to be remanded back, he may not insist on the payment of fine. It is a jurisdiction with which entirely with the District Collector and this Court cannot give any direction this way or that way. The petitioner is always at liberty to raise any other ground questioning the order of the first respondent

10. With the above directions, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

07.06.2023

Index :Yes/No
Internet :Yes/No
NCC : Yes / No

RM



W.P(MD)No.13148 of 2023

To
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W.P(MD)No.13148 of 2023

C.V.KARTHIKEYAN, J.

RM

W.P(MD)No.13148 of 2023

07.06.2023