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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.06.2023

CORAM

THE HONOURABLE MR.JUSTICE **C.V.KARTHIKEYAN**

W.P.(MD)No.15375 of 2023

V.A.Balachandran

... Petitioner

vs.

The Commissioner,
Madurai Corporation,
Anna Maligai, Thallakulam, Madurai – 625 002. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondent to remove the blockade of drainage, to reopen the drainage and fresh water points within a time frame.

For Petitioner :Mr.B.A.Muruganantham
For Respondent :Mr.A.Nagendran

ORDER

The Writ Petition has been filed in the nature of a Mandamus seeking a direction against the respondent/Commissioner, Madurai Corporation, to remove the blockade of drainage and to re-open the



drainage and fresh water point with respect to the resident of the petitioner herein.

2.Heard Mr.B.A.Muruganantham, learned Counsel for the petitioner and Mr.A.Nagendran, learned Counsel for the respondent.

3.The Writ Petitioner had filed an earlier Writ Petition in W.P. (MD)Mo.8778 of 2023 and the relief sought in that particular Writ Petition was to issue a Mandamus to direct the respondent, the same respondent herein, to remove the blockage of drainage and to re-open the drainage and fresh water point. In effect, having the benefit of a computer in the office, the same relief had been once again extracted and a print out had been taken out and the second Writ Petition has been filed. In the earlier Writ Petition, after hearing both sides, an order was passed on 25.04.2023, as follows:

“Heard Mr.B.A.Muruganantham, learned Counsel for the petitioner and Ms.S.Devasena, learned Standing Counsel for the respondent.

2.When the matter came up for hearing on 18.04.2023, time was granted to the learned Standing Counsel for the respondent to get necessary instructions.

3.Today The learned Counsel for the Writ Petitioner stated that the blockages have been removed.



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4. But, however, the learned Standing Counsel for the respondent/Madurai Corporation stated that the Writ Petition had been cleverly drafted to screen the arrears of property tax to the extent of Rs.5,00,460/- as on date. That property tax of Rs. 5,00,460/- is due payable even after adjusting a sum of Rs. 1,50,000/-, which had been paid by the petitioner.

5. The petitioner, who is in arrears of tax, has a duty to first pay the tax before exercising any right. The respondent is at liberty to exercise the proceedings in manner known to law for recovery of the tax, if the petitioner does not pay the said tax on or before 15.05.2023.

6. The Writ Petition stands disposed of. No order as to costs."

4. The petitioner had not complied with the direction earlier. He raised disputes about the quantum. He claims that only a sum around Rs. 4,00,000/- is due and payable. But, having filed a Writ Petition and having the benefit of an order, he should have deposited the amount with the respondent with a condition that the calculation should be re-worked at a later point of time. If he is really interested in ensuring that the blockage of the drainage removed, then there should be a compliance of the order of this Court and thereafter, by separate proceedings, the issue of excess payment or additional payment or differential payment can be re-examined and re-worked between the parties. But, filing a second Writ Petition cannot be encouraged and therefore, the facts in this Writ Petition seeking the same relief cannot be re-examined by this Court.



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5.The Writ Petition stands dismissed accordingly. No costs.

6.I am informed by the learned Counsel that W.M.P.(MD)No.11082 of 2023 had been filed by the petitioner herein in the earlier Writ Petition. If the Registry is of the opinion that filing a Miscellaneous Petition is permissible, even though the Writ Petition has been disposed of, the same may be listed. If according to the Registry, the said Miscellaneous Petition cannot be listed, since the Writ Petition has been disposed of, the Writ Petitioner will have to work out his remedy in manner known to law. If it is permissible, the same may be listed on 04.07.2023. When the petition seeking extension of time is listed, the petitioner may also file a further affidavit seeking removal of the blockage of the drainage.

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

27.06.2023

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C.V.KARTHIKEYAN, J.

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Order made in
W.P.(MD)No.15375 of 2023

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