



WEB COPY

W.A.No.2482 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2024

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.A.No.2482 of 2021
and
C.M.P.Nos.16168 & 16240 of 2021

Thiru S.Velusamy

... Appellant

Vs.

The Commissioner,
Mayiladuthurai Municipality,
Municipality Officer,
Mayiladuthurai.

... Respondent

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 08.07.2021 passed in W.P.No.14042 of 2021 on the file of this High Court and allow the writ petition.

For Appellant : Mr.M.A.Vimalamohan

For Respondent : Mr.P.Srinivas



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J U D G M E N T

[Judgment was delivered by **S.M.SUBRAMANIAM, J.**]

The notice dated 26.03.2021 issued by the Commissioner, Mayiladuthurai Municipality stating that the subject land belonging to the Municipality is not given on lease was under challenge in the writ petition filed by the writ appellant before us.

2. The notice issued by the Mayiladuthurai Municipality would reveal that the subject land is a footpath and belongs to Mayiladuthurai Municipality. The said land cannot be sold to the appellant. Therefore, the check sent by the appellant for Rs.516/- was returned.

3. The appellant filed the writ petition to quash the said order and convey the subject land in his favour as per the directions of the High Court in Second Appeal No.1243 of 1991 dated 23.10.2022.

4. No doubt, the appellant is armed with the judgment passed in S.A.No.1243 of 1991 dated 23.10.2022. With reference to the said judgment



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passed in the Second Appeal, no writ petition is entertainable and the appellant ought to have approached the Execution Court during the relevant point of time. Without approaching the Execution Court under the Civil Procedure Code, the appellant have chosen to file the writ petition seeking implementation of the order passed in Second Appeal, which is untenable.

5. The learned Single Judge considered these aspects and dismissed the writ petition. The petitioner has chosen to file a writ petition in view of the fact that time limit contemplated for filing an execution petition expired. Such a ground by the petitioner cannot be considered by the Writ Court for the purpose of executing the judgment passed in the Second Appeal.

6. Thus, we are inclined to confirm the order impugned passed in the writ petition and stands confirmed. Consequently, the Writ Appeal stands dismissed. No costs. Connected Miscellaneous Petitions are closed.

[S.M.S., J.] [C.K., J.]
12.06.2024

Jeni
Index : Yes
Speaking order
Neutral Citation : Yes



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To
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The Commissioner,
Mayiladuthurai Municipality,
Municipality Officer,
Mayiladuthurai.



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S.M.SUBRAMANIAM, J.
and
C.KUMARAPPAN, J.

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