



W.P.(MD)No.28112 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.11.2024

CORAM:

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.(MD)No.28112 of 2024

K.Ramaiah

... Petitioner

/Vs./

1.The District Collector,
Pudukkottai District,
Pudukkottai.

2.The Tahsildar,
Pudukkottai Taluk,
Pudukkottai District.

3.The Surveyor,
Taluk Office,
Pudukkottai Taluk,
Pudukkottai District.

4.The Inspector of Police,
Ganesh Nagar Police Station,
Pudukkottai District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents 1 to 3 to survey the petitioner's property and fix boundary stones in connection with properties in T.S.No.9962/10 to an extent of 1332 sq.ft (Block No.72), situated at opposite to District Court, Pudukkottai Town & Taluk, Pudukkottai District, under the supervision of the fourth respondent for surveying the land, on the basis of the petitioner's representation dated 21.10.2024, within a time frame to be stipulated by this Court.



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For Petitioner : Mr.G.Mathavan
For R1 to R3 : Mr.M.Muthumanikkam
Government Advocate (Civil side)
For R4 : Mr.K.Gnana Sekaran
Government Advocate (Crl.side)

ORDER

This Writ Petition is filed for issuance of a Writ of Mandamus directing the respondents 1 to 3 to survey the petitioner's property and fix boundary stones in connection with properties in T.S.No.9962/10 to an extent of 1332 sq.ft (Block No.72), situated at opposite to District Court, Pudukkottai Town & Taluk, Pudukkottai District, under the supervision of the fourth respondent for surveying the land, on the basis of the petitioner's representation dated 21.10.2024, within a time frame to be stipulated by this Court.

2. The petitioner purchased the property in T.S.No.9962/10 to an extent of 1332 sq. ft. (Block No.72) in Pudukkottai Town and Taluk, Pudukkottai District, under a sale deed in Doc.No.5696/2024. The petitioner was issued with patta by the second respondent in T.R.No. 2024/0153/22/001459 dated 18.09.2024. The petitioner decided to fix the correct boundaries to his property and therefore, he approached the



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respondents on 21.10.2024 for survey and to demarcate the boundaries. The petitioner also remitted requisite fee. On the very same day, i.e on 21.10.2024, the petitioner sent a representation. Since his representation was not considered, the petitioner filed the above Writ Petition for the aforesaid relief.

3. It is seen that the petitioner submitted the online application along with requisite fees on 21.10.2024 and on the same day i.e on 21.10.2024, the petitioner submitted a representation.

4. The Hon'ble Supreme Court of India on the nature of a writ of mandamus held as follows in the following cases:

(i)Saraswathi Industrial Syndicate Limited and others Vs Union of India reported in **1974 (2) SCC 630**.

"24. As the appeals fail on merits we need not discuss the technical difficulty which an application for a writ of certiorari would encounter when no quasi-judicial proceedings was before the High Court. The powers of the high Court under Article 226 are not strictly confined to the limits to which proceedings for prerogative writs are subject in English practice. Nevertheless the well recognised rule that no writ or order in the nature of a



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Mandamus would issue when there is no failure to perform a mandatory duty applies in this country as well. Even in cases of alleged breaches of mandatory duties the salutary general rule which is subject to certain exceptions applied by us as it is in England when writ of Mandamus is asked for could be stated as we find it set out in Halsbury's Laws of England (3rd edition vol. 13 p. 106):

"As a general rule the order will not be granted unless the party complained of has known what it was he was required to do so that he had the means of considering whether or not he should comply and it must be shown by evidence that there was a distinct demand of that which the party seeking the mandamus desires to enforce and that that demand was met by a refusal."

25. In the cases before us there was no such, demand refusal. Thus no ground whatsoever is shown here for the issue of any writ order or direction under Article 226 of the Constitution. These appeals must be and are hereby dismissed but in the circumstances of the case we make no order as to costs.

(ii) In Amrit Lal Berry Vs K.N.Kapur and others reported in

1975 (4) SCC 714, the Court held as follows:

"25. In the petition of K. N. Kapur & others, we do not even find an assertion that any representation was made against any violation of a petitioner's right. Hence, the rule recognised by this Court in Kamini Kumar Das Choudhury v. State of West



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Bengal & Ors. that a demand for justice and its refusal must precede the filing of a petition asking for direction or Writ of Mandamus, would also operate against the petitioners."

(iii) In **the State of Haryana and others Vs Chanan Mal and others** reported in **1977 1 SCC 340**, it was held as follows:

"43. Any petitioner who applies for a writ or order in the nature of a mandamus should, in compliance with a well known rule of practice, ordinarily, first call upon the authority concerned to discharge its legal obligation and show that it has refused or neglected to carry it out within a reasonable time before applying to a Court for such an order even where the alleged obligation is established."

5. Even in the latest judgments reported in **2022(17) SCC 188 (Union of India and others Vs. Bharat Forge Limited and another)** and **2023(1) SCC 386 (Hero Motocorp Limited Vs. Union of India and others)**, the Hon'ble Supreme Court of India had enunciated the principles of writ of mandamus

6. From a reading of the aforesaid judgments, it is clear that there should be a demand and refusal for mandamus. The purpose behind making a demand is to give an opportunity to the authorities to redress the grievance. The demand is not an empty formality, but it should be



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made with a view to giving an opportunity to the authority to comply with the same. Giving of reasonable opportunity, in my view, is not a mere ritual. The authority should be given practicable time to comply with the demand. In the present case, the representation was submitted on the very next day of the application and therefore, in my view, in the absence of reasonable opportunity to the respondents to process the application, the mandamus prayed for cannot be issued. I am therefore inclined to dismiss the writ petition. It is open to the petitioner to submit fresh representation to the respondents giving reasonable time for compliance, failing which, to apply for writ of mandamus. The writ petition is dismissed with the above observation. No costs.

26.11.2024

Index : Yes / No
NCC : Yes / No
CM



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To,

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Pudukkottai District,
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2.The Tahsildar,
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N.MALA, J.

CM

Order made in
W.P.(MD)No.28112 of 2024

Dated:
26.11.2024