



W.P.(MD) No.18233 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD) No.18233 of 2017

S.Subramani Mahadev @ S.Mahadevan

.. Petitioner

Vs.

The Commissioner,
Karaikudi Municipality,
Karaikudi.

.. Respondent

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the respondent to consider and dispose the petitioner's representations dated 12.11.2013 and 04.02.2016 addressed to the respondent herein in respect of handover of the possession of house and ground situated in Town Survey No.656 part, New T.S.No.656/1, Block No.6, Ward No.1, Perumal Koil Street, Kazhanivasal Agraharam, Karaikudi Municipal Town admeasuring 1570 Sq.Ft. or 174 Sq. yards and to issue patta and discharge certificate regarding the same property, within a time frame that may be fixed by this Court.

For Petitioner : Mr.P.Muthusamy



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For Respondent : Mr.EP.Venkateshwar

ORDER

This writ petition has been filed seeking for a direction to consider the representations of the petitioner dated 12.11.2013 and 04.02.2016 and to handover possession of the house and the property situate in T.S. No.656/1, Block No.6, Ward No.1, Karaikudi Municipal Town admeasuring 1570 Sq. ft and to issue patta in the name of the petitioner and a discharge certificate regarding the property.

2. The case of the petitioner is that the grandfather of the petitioner was working in Karaikudi Municipality as a Bill Collector and he was proceeded with for misappropriation of funds and a recovery suit was also instituted against him in O.S.No.278 of 1958, where the suit was also decreed *ex-parte* on 19.06.1959. It is his case that in the year 1986, a letter had been addressed by the then Manager of the respondent to pay the dues under the decree even with consideration of the request made by the petitioner's grandmother. Pursuant to the said letter, he would submit that in the year 1995, the petitioner's grandmother had drawn a demand



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draft dated 23.06.1995 in favour of the respondent representing the decreed amount and had sent the same by a registered post to the respondent. In spite of the receipt of the said amount, the property was not discharged by the respondent and therefore, he has filed the present writ petition and thereafter, after the death of his grandmother, the petitioner had sent representations to the respondent seeking for a discharge certificate. As the same was not favourably answered, the petitioner has approached the Court. Hence, he seeks the direction as prayed for.

3. Countering his arguments, the learned counsel for the respondent would submit that the entire proceedings had been initiated against the alleged grandfather of the petitioner and the property upon action was initiated, delivery was also recorded in the Execution Proceedings. He would further disown the letter addressed to by the Manager of the respondent Municipality in the year 1986 and also would further submit that there is no proof that the letter dated 24.06.1995 along with demand draft was sent to the respondent. He would submit



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that the reliance placed upon by the petitioner on the acknowledgement card itself would indicate that the acknowledgement card had been signed by the Municipality in the year 1998 and not 1995. Even assuming that the said acknowledgement refers to the said letter which the demand draft was enclosed in the said letter would become expired that could not be encashed, as the same would have been sent after a period of three years. Hence, he would submit that there is no merit in the writ petition and seeks dismissal of the same.

4. I have considered the rival submissions made by the learned counsel on either side.

5. Even though the learned counsel for the petitioner raised the contention that pursuant to the communication of the Manager of the respondent in the year 1986, in the year 1995, the petitioner's grandmother had sent an amount as demanded in the said letter, as rightly pointed out by the learned counsel appearing for the respondent, the acknowledgement which is sought to be relied for proof of delivery of



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the letter dated 1995 along with the demand draft of the year 1995 was only made in the year 1998. In such event, the demand draft could not have been encashed at any stretch of imagination by the respondent.

6. For the facts narrated above, the proceedings were initiated against the grandfather of the petitioner in the year 1959 and in the Execution Proceedings, delivery was also recorded in the year 1970, which also indicates that the amount had been recovered by sale of the immovable property. The petitioner had not disclosed all these facts in a proper manner, nor has he impleaded the auction purchaser of the property in the Court auction. In such view of the matter, I do not find any merit in the writ petition.

7. Accordingly, this Writ Petition stands dismissed. However, there shall be no order as to costs.

20.01.2025

NCC : Yes/No
Index : Yes/No
abr



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K.KUMARESH BABU, J.

abr

To

The Commissioner,
Karaikudi Municipality,
Karaikudi.

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