

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2015

CORAM

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH

W.P.No.21914 of 2011

S.Arul Raj

... Petitioner

-Vs-

- 1.The District Collector,
Collectorate, Kancheepuram.
- 2.The Block Development Officer,
Tiruporur Union,
Tiruporur, Chengalpet Taluk.
- 3.The President,
Thaiyur Village Panchayat,
Thaiyur Village, Tiruporur Union,
Chengalpet Taluk.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of mandamus directing the 3rd respondent to make the payment of Rs.4,65,723/- along with interest for the work carried out by the petitioner for the 3rd respondent.

For Petitioner : Mr.Su.Srinivasan
For Respondents : Mr.S.V.Duraisolaimalai,
Additional Government Pleader (R1 & R3)
Mr.V.Jayaprakash Narayanan (R2)

O R D E R

The petitioner is said to be a contractor for execution of work of the respondent nos.2 & 3. He has laid road in the year 2001 and thereafter the petitioner was issued with cheque for the work done by the him by the then President-one Pappathi in the year 2005. The cheque got bounced. The petitioner initiated proceedings under Section 138 of the Negotiable Instruments Act. He also issued legal notice on 27.12.2005 followed by a representation dated 11.06.2007. The proceedings in C.C.No.9 of 2006 on the file of the learned Judicial Magistrate I, Chengalpet was quashed by this Court in

Cr1.O.P.No.21956 of 2006 dated 05.03.2010 on the ground that a local authority cannot come within the purview of a Company under Section 141 of the Negotiable Instruments Act. Thereafter, the petitioner once again approached the respondents for receiving payment. As they have not made the payment, the present Writ Petition has been filed.

2.The objection raised by the learned Additional Government Pleader is to the effect that there are no sufficient records available to prove the nature of work done. It is also submitted that the cheque has been issued by the then President Pappathi and that proceedings have been initiated against her. Hence, the petitioner cannot invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India instead of approaching the Civil Court, at this point of time.

3.What is required is an element of fairness on the part of an authority under Section 12 of the Constitution of India. The fact that the cheque has been issued by the then President is not in dispute. This Court was pleased to quash the proceedings on the ground that a local authority cannot come within the definition of term Company under Section 141 of the Negotiable Instruments Act. The issuance of cheque alone would be sufficient to direct the respondent no.3 to make the payment to the petitioner, when admittedly, it has been issued for the amount due to the petitioner, which subsequently got bounced as the person who issued the cheque lost her authority in view of the order passed by the District Collector in withholding the said power. Thus, there is no dispute on the issuance of the cheque and the debt is legally recoverable in law. It was also issued on behalf of the Panchayat. Merely because records of the respondents are not available, the same cannot be a ground to deny the payment to the petitioner, who is agitating for nearly a decade and half.

4.The learned counsel for the petitioner submitted that he is not insisting for interest on the amount due to the petitioner.

5.Accordingly, the Writ Petition is allowed directing the respondent no.3 to pay the sum of Rs.4,65,723/- to the petitioner within a period of four weeks from the date of receipt of a copy of this order. No costs.

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-s/d-

Assistant Registrar(CIII)
dt:16/09/2015

True Copy

Sub-Assistant Registrar

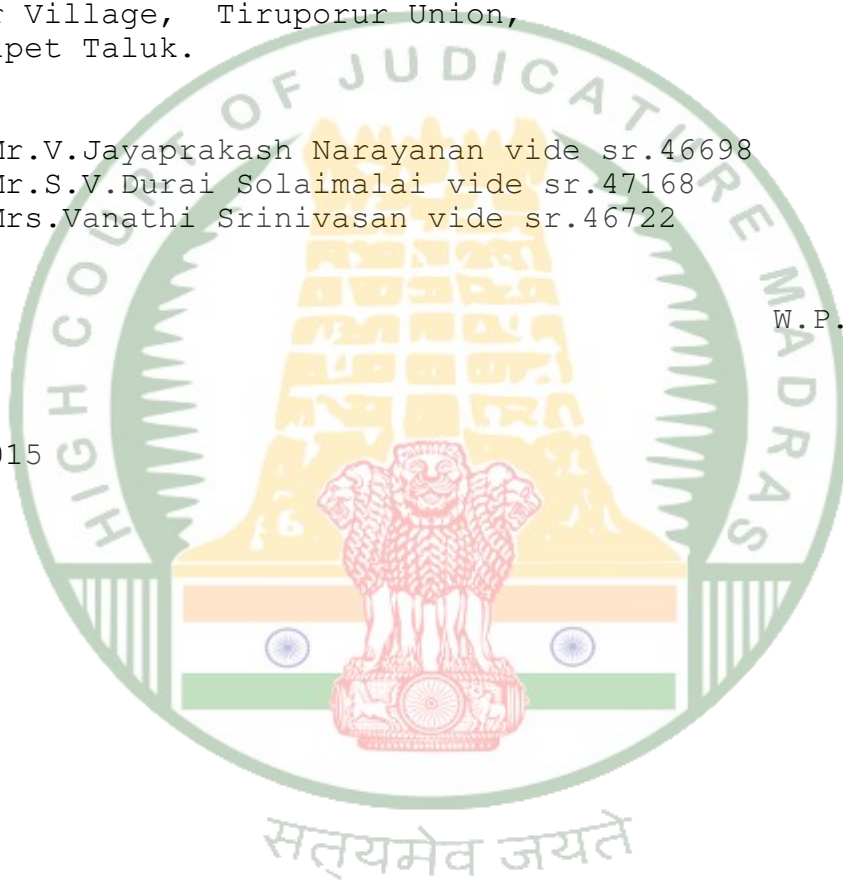
To

- 1.The District Collector,
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- 2.The Block Development Officer,
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Tiruporur, Chengalpet Taluk.
- 3.The President,
Thaiyur Village Panchayat,
Thaiyur Village, Tiruporur Union,
Chengalpet Taluk.

+1 cc to Mr.V.Jayaprakash Narayanan vide sr.46698
+1 cc to Mr.S.V.Durai Solaimalai vide sr.47168
+1 cc to Mrs.Vanathi Srinivasan vide sr.46722

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