

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 31.03.2016

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The Hon'ble Mr.Justice T.S.Sivagnanam

Review Petition (Writ) No.38 of 2016

and

W.P.No.14166 of 2014

and

M.P.Nos.1 and 2 of 2014

Sri Ramakrishna Mutt and
Sri Vivekananda Reading Room,
presently Ambur Sri Ramakrishna
Mada Sevai Sangam,
represented by its General Secretary,
Mr.K.Anandan,
No.85-T, Bye-Pass Road,
Ambur, Ambur Taluk,
Vellore District.

... Review Petitioner/writ petitioner

vs

- 1.The District Collector,
Vellore District,
Sathuvachari, Vellore.
- 2.The Sub-Collector,
Revenue Divisional Office,
Thirupathur, Vellore District.
- 3.The Tahsildar,
Ambur Taluk Office,
Ambur, Vellore District.

4.The District Library Authority,
No.1, Inbentari Road,
Vellore – 632 001.

5.The Branch Librarian,
District Library Branch,
No.88/C, 1st Floor,
New Bye-Pass Road,
Ambur – 635 802.

... Respondents 1 to 5 in
both Review Application and Writ Petition.

Review Application, filed under Order XLVII Rule 1 r/w 114 of the Code of Civil Procedure against the order passed by this Court in W.P.No.14166 of 2014, dated 16.03.2015.

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records relating to the impugned notice of the third respondent dated 14.05.2014 in Pa.Ve.B1/01/2014 issued to the petitioner and consequential proceedings of the second respondent dated 19.05.2014 in Pa.Ve.B1/01/2014 affixed on the petition property, being ground and premises, the land measuring an extent of 2510 sq.ft., situated at Ward-D, Block-12, comprised in T.S.No.58, Door No.141, Kamarajar Road (S.K.Road), Ambur Town and Taluk, Vellore District and quash the same as arbitrary, unconstitutional and illegal.

For Review Petitioner

/Writ Petitioner : Mr.R.Munuswamy

For Respondents in

both Review & W.P. : Mr.R.Lakshminarayanan
Additional Government Pleader

COMMON O R D E R

The Writ Petition was closed, by order, dated 16.03.2015, primarily on the ground that even notice was not ordered in the Writ Petition since 2014, and it is not known as to what further proceedings had taken place pursuant to the notice issued by the Tahsildar, Ambur, dated 14.05.2014, which was sought to be quashed in the Writ Petition.

2. Now, the review petitioner/writ petitioner has filed this Review Petition on the ground that since there was boycott of Courts throughout the State on 16.03.2015, the counsel for the writ petitioner could not appear in the matter, and therefore, the review petitioner prays that the Writ Petition may be decided on merits.

3. Heard the learned counsel appearing for the review petitioner on the above submission, and satisfied with the reasons given by the review petitioner. Accordingly, the Review Petition is allowed, the order, dated 16.03.2015 passed in the Writ Petition is recalled, and the Writ Petition is restored on file.

4. The Writ Petition has been filed by the petitioner, challenging the notice issued by the third respondent/Tahsildar, Ambur, dated 14.05.2014.

5. Heard the learned counsel appearing for the writ petitioner and the learned Additional Government Pleader for respondents.

6. The petitioner is an Association, and their case is that they are the owner of the land and superstructure, bearing T.S.No.58, Door No.141, Kamarajar Road, Ambur Town and Taluk, Vellore District. It appears that a portion of the area was given for establishing a branch library. Though the library was shifted in the year 2010 to a different location, the petitioner continued to be in possession of not only the library area, but also the area

adjoining to it. During 2013, the other Organization, impersonated the petitioner/Association, and attempted to interfere with the petitioner's possession of the property. Hence, the petitioner filed a suit on the file of the Principal District Munsif Court, Ambur, Vellore, in O.S.No.38 of 2013, for permanent injunction against the defendants/respondents 1, 4 and 5 herein. The suit appears to have been dismissed by a judgment and decree, dated 08.04.2014. Since the suit was dismissed, the Tahsildar/third respondent issued the impugned notice and sealed the premises. The petitioner now seeks for a direction to remove the seal. There can be no error on the part of the Tahsildar in issuing the impugned notice, sealing the premises, as it is the outcome of the decision upheld by the Trial Court in the Original Suit. As long as the suit was pending, there was prohibition on the respondents from interfering with the petitioner's possession, but, as soon as the suit was dismissed, and there was no such prohibition, hence, the third respondent was justified in taking action. At this juncture, the learned counsel appearing for the petitioner/Association submits that as against the judgement and decree passed in the Original Suit, the petitioner has preferred an Appeal in A.S.No.75 of 2015, on the file of the Sub Court, Vaniyambadi, and the Appeal Suit is pending. If such is the case, then, it

is open to the petitioner to work out his remedy after obtaining appropriate judgment and decree in the Appeal Suit from the Lower Appellate Court, if so advised. Hence, the question of quashing the impugned proceedings at this stage of the matter does not arise and the Writ Petition is closed, leaving it open to the petitioner to workout his remedy after the disposal of the Appeal Suit filed before the Lower Appellate Court. No costs.

7. In the result, the Review Application is allowed, and the Writ Petition is closed. No costs. Consequently, the connected miscellaneous petitions, pertaining to the Writ Petition are also closed.

31.03.2016

Index : Yes/No

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T.S.Sivagnanam, J.,

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