



WEB COPY

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.04.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR

and

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.A. (MD) Nos.674 and 675 of 2016

and

CMP (MD) Nos.4330 and 4339 of 2016

R.Manickam .. Appellant in W.A.(MD)No.674 of 2016

K.Subramanian .. Appellant in W.A.(MD)No.675 of 2016

Vs.

1.The District Collector,
Tirunelveli,
Tirunelveli District.

2.The Commissioner,
Tenkasi Municipality,
Tenkasi, Tirunelveli District... Respondents in both the writ appeals

COMMON PRAYER: Writ Appeals are filed under Clause XV of Letters of Patent, against the common order dated 01.11.2010 made in W.P.(MD) Nos.1642 and 1643 of 2008.

Prayer in WP(MD)No.1642/2008 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandmaus, to call for the records and quash the impugned order passed by the 2nd respondent in Na.Ka.No. 4519/2007/1 dated 18/01/2008 and consequently direct the 2nd respondent to implement the decree in O.S.No. 26 of 1993 on the file of the District Munsif Court, Tenkasi.

Prayer in WP(MD)No.1643/2008 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandmaus, to call for the records and quash the impugned order passed by the 2nd respondent in Na.Ka.No. 4519/2007/1 dated 18/01/2008 and consequently direct the 2nd respondent to implement the decree in O.S.No. 26 of 1993 on the file of the District Munsif Court, Tenkasi.



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For Appellants
in both W.As

: Mr.K.Prabhu

For R1
in both W.As.

: S.Kumar
Additional Government Pleader

For R2
in both W.As.

: K.Mahendran

COMMON JUDGMENT

(Judgment of this Court was delivered by S.S.SUNDAR, J.)

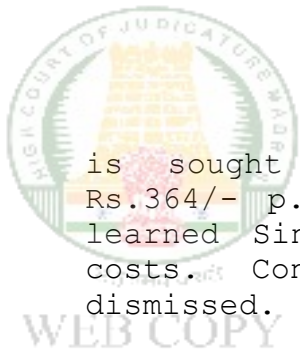
The writ petitioners are the appellants herein. The petitioners/appellants have filed W.P.(MD)Nos.1642 and 1643 of 2008 seeking issuance of writ of Mandamus directing the 2nd respondent in Na.Ka.No.4519/2007/C1, dated 18.01.2008 and consequently, direct the 2nd respondent to implement the decree in O.S.No.26 of 1993 on the file of the District Munsif Court, Tenkasi.

2.The case of the petitioners/appellants is that they were working as Sanitary workers in the second respondent office/Commissioner, Tenkasi Municipality, Tenkasi and they are residing in the Municipal Colony House and they are paying a monthly rent of Rs.15/- p.m. and the same was being deducted from their salary as per the G.O.Ms.No.1079, Social Welfare Department, dated 29.12.1981.

3.Since the second respondent increased the house rent for the petitioners/appellants from Rs.15/- p.m to Rs.100/- p.m. from the year 1992, it appears that the petitioners/appellants have filed a suit in O.S.No.26 of 1993, seeking permanent injunction not to collect the rent at rate of Rs.100/- p.m. on the ground that as the 2nd respondent has paid the house rent allowance only at the rate of Rs.15/- p.m., to the petitioners/appellants, rent at the rate Rs.100/-, cannot be recovered from the petitioners/appellants.

4.The Civil Court granted a decree by Judgment, dated 27.02.1997. Based on the decree, the petitioner has now challenged the notice, wherein a sum of Rs.307/- p.m. was deducted from their salary on the ground that they had not paid house rent, despite the fact that they were given accommodation. This order was challenged in the writ petitions. The learned Single Judge after considering the fact that the Civil Court's decree cannot be enforced to prevent the present proceedings of the second respondent, wherein the allowances towards house rent wrongly and excessively paid to the petitioner, is sought to be recovered for the period from 01.04.1998 to 31.08.2007, as against G.O.Ms.No.1079, Social Welfare Department, dated 29.12.1981, held that the writ petition, is wholly unsustainable. Therefore, the learned Single Judge found that there is no violation of Civil Court's order of permanent injunction granted in O.S.No.26 of 1993.

5.The conclusion reached by the learned single Judge to dismiss the writ petitions is just and proper. Even the amount excessively paid



is sought to be recovered only in 50 monthly installments at Rs.364/- p.m. There is no reason to interfere with the order of the learned Single Judge and hence, the writ appeals are dismissed. No costs. Consequently, connected Miscellaneous Petitions are also dismissed.

Sd/
Assistant Registrar(AE)

/TRUE COPY/

Sub Assistant Registrar

To

The District Collector,
Tirunelveli,
Tirunelveli District.

+2ccs to M/S.K.Prabhu, Advocate in SR.Nos.24829, 24830
+1cc to M/S.K.Mahendran, Advocate in SR.No.24876
+1cc to Special Government Pleader in SR.No.25760

W.A. (MD) Nos.674 and 675 of 2016
28.04.2016

rj2
PA/GSV-PM/SAR II/07.06.2016/3P/6C