



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:08.12.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P. (MD) No.23784 of 2016

WEB COPY

Jerome Paulraj

... Petitioner

Vs.

1. The Director,
Directorate of Social Welfare Department,
Old Engineering College Complex,
Chepauk, Chennai -5.
 2. The District Social welfare Officer,
Office of the District Social Welfare,
Madurai District,
Madurai.
 3. The Protection Officer/The District social Welfare Officer,
District Social Welfare Department,
Sivagangai District,
Sivagangai.
- ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the first respondent herein to appoint some other District Social Welfare Officer other than the second respondent herein to conduct enquiry on the complaint of the petitioner herein, dated 30.10.2015 and to pass orders after giving opportunity to the petitioner within the time fixed by this Court.

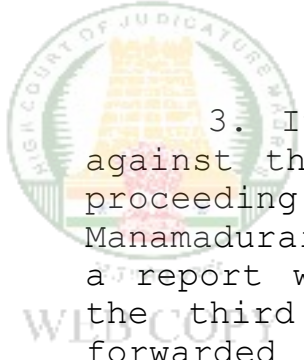
For Petitioner : Mr.H.Arumugam

For Respondents : Mr.T.S.Mohammed Mohideen
Additional Govt. Pleader

O R D E R

The prayer in this writ petition is for a Mandamus directing the first respondent to appoint some other District Social Welfare Officer other than the second respondent herein to conduct enquiry on the complaint of the petitioner herein, dated 30.10.2015 and to pass orders, after giving an opportunity to the petitioner within the time fixed by this Court.

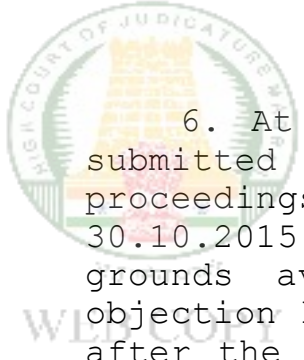
2. Heard Mr.H.Arumugam, the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.



3. It appears that the petitioner's wife made a complaint against the petitioner under the Domestic Violence Act and such proceeding is pending before the learned Judicial Magistrate, Manamadurai in CrI.M.P.No.5357 of 2012. Based upon such complaint, a report was called for by the learned Judicial Magistrate from the third respondent, who in -turn conducted an enquiry and forwarded the report to the learned Judicial Magistrate. However, the grievance of the petitioner herein is that the third respondent has conducted such enquiry in a total biased manner, without considering any of the contentions raised by the petitioner as well as his parents and their statements made before the third respondent. Thus, it is contended that the petitioner made a representation/complaint to the first respondent to take action against the third respondent, who in-turn directed the second respondent to look into the said complaint given by the petitioner on 30.10.2015. Therefore, it is stated before this Court by the learned counsel for the petitioner that the second respondent instead of deciding the allegation made by the petitioner against the third respondent on his own, has forwarded the complaint to the third respondent himself.

4. The learned Additional Government Pleader submitted that if the petitioner is aggrieved by the report filed by the third respondent, it is always open to him to raise all the grounds including the ground raised against the report, while challenging the final order is passed by the learned Judicial Magistrate under the Protection of Women from Domestic Violence Act, 2005.

5. It is not in dispute that the complaint made by the petitioner's wife under the above said Act is pending before the jurisdictional Magistrate. It is also not in dispute that a report is filed by the third respondent before the said Court. Therefore, it is for the learned Judicial Magistrate to pass final orders as provided under the said Act. Needless to say that if the final order goes against the petitioner in any manner, the petitioner is at liberty to challenge the same as provided under the above said Act before the appropriate forum by raising all the grounds available to him both on legal and factual aspects of the matter. When such avenue is available to the petitioner and such an occasion has not arisen so far, I am of the view that the filing of the present writ petition that too with the prayer as referred to supra, is totally misconceived or prematured and thus, the same cannot be entertained. As already stated supra, when the petitioner is having an opportunity to question the report of the third respondent on the grounds available under Law as well as on facts, there is no necessity for the petitioner to insist upon the complaint filed by him against the third respondent, dated 30.10.2015.



6. At this juncture, the learned counsel for the petitioner submitted that the petitioner may not insist upon further proceedings on the complaint made by the petitioner, dated 30.10.2015 and would challenge the report by raising all the grounds available to the petitioner either by filing an objection before the Magistrate before passing the final order or after the final order is passed. By granting such liberty to the petitioner, this writ petition is disposed of without expressing any view on the merits and contentions raised in respect of the complaint made under the Domestic Violence Act. No costs.

Sd/-
Assistant Registrar (AD)

/True Copy/

Sub Assistant Registrar

To

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Directorate of Social Welfare Department,
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Chepauk, Chennai -5.
2. The District Social welfare Officer,
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Madurai.
3. The Protection Officer/The District social Welfare Officer,
District Social Welfare Department,
Sivagangai District,
Sivagangai.

+1cc to Mr.H.Arumugam, Advocate, SR.No.80040
+1cc to Special Government Pleader, SR.No.80276

W.P. (MD) No.23784 of 2016
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