

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Appellate Jurisdiction)

Friday, the Twenty Eighth day of April Two Thousand Seventeen

PRESENT

THE HON`BLE MR JUSTICE R.SUBBIAH

AND

THE HON`BLE MR JUSTICE M.S. RAMESH

CMP NO.7736 & 7737 OF 2017

IN A.S.NO.31 & 32 OF 2015

THE SPECIAL TAHSILDAR (LA) [PETITIONER IN BOTH THE PETITIONS]
CHENNAI CITY WATER WAYS SCHEME,
AMBATHUR, CHENNAI.

Vs

1 R.CHANDRA [RESPONDENT IN CMP.7736/17 IN AS.31/15]
W/O.D.RAMAMURTHY, FLAT NO.21/1081, 1ST FLOOR,
JEEVAN BEEHIMA NAGAR, ANNA NAGAR, WEST EXTENSION,
CHENNAI 600 101,
REP BY POA AGENT D.NARAYANAN, S/O.DURAISAMY,
NEW NO.27, OLD NO.19, COLLEGE ROAD,
PAZHAVANTHANGAL, CHENNAI 600 114.

1 D.SURESHKUMAR, [RESPONDENT IN CMP.7737/17 IN AS.32/15]
S/O.A.DEENADAYALU,
PAZHAVANTHANGAL, CHENNAI 600 114,
REP.BY POA AENT,
D.NARAYANAN, S/O.DURAISAMY,
NEW NO.27, OLD NO.19, COLLEGE ROAD,
PAZHAVANTHANGAL, CHENNAI 600 114.

2 THE EXECUTIVE ENGINEER [2ND RESPONDENT IN BOTH THE PETITIONS]
PUBLIC WORKS DEPARTMENT,
KOSASTHALAIYAR BASIN, THIRUVALLUR.

Petition praying that in the circumstances stated therein
and in the affidavit filed therewith the High Court will be pleased
to

to re-call the order dated 05.12.2016 made in CMP.7159 of
2016 in MP.no.1 of 2015 in A.S.No.31/2015 (in CMP.No.7736/17 in
A.S.No.31/15)

(ii) to re-call the order dated 05.12.2016 made in C.M.P.No.7160 of 2016 in M.P.No.2 of 2015 in A.S.No.32/2015 (in CMP.No.7737/17 in A.S.No.32) respectively.

Order : These petitions coming on for orders upon perusing the petitions and the respective affidavits filed in support thereof and upon hearing the arguments of Mr.P.GUNASEKARAN, Additional Government Pleader for the petitioner in both the petitions and of Mr.M.S.SUBRAMANIAN, Advocate for the petitioner in both the petitions the court made the following order:-

(Order of the Court was made by **R. SUBBIAH, J**)

These miscellaneous petitions have been filed praying to recall the order dated 05.12.2016 passed in CMP Nos. 7159 and 7160 of 2016 in A.S. No. 31 of 2015. The order dated 05.12.2016 passed by the earlier Division Bench of this Court reads as follows:-

"Though the interim order was passed on 30.10.2015, the respondents have not chosen to deposit 50% of the award amount, as directed by this Court. Therefore, the interim stay granted by this Court is hereby vacated. The lower Court is directed to expedite the Execution Petition and report the execution of the same within a period of four weeks from today.

2. The Land Acquisition Officer and Special Tahsildar (L.A.) Mr. T. Baranidharan, S/o. M.A. Thirunavukarasu, is residing at Plot No.28, Gokul Garden, Meinallathur, Tiruvallur 602 004 has not complied with the order of this Court dated 30.10.2015 and thus, he disobeyed the order of this Court. Therefore, we deem it appropriate to initiate suo-motu contempt against the petitioner and also Mr. A.M. Asokan, Executive Engineer, Public Works Department, Kosasthalaiyar Basin Division, Tiruvallur.

3. As directed earlier by order dated 09.11.2016, the second contemnor has appeared today before us. He states that he has no explanation except that the file is under circulation. Therefore, we found him guilty of contempt and impose a fine of Rs.3,000/- (Rupees Three Thousand Only) on the said contemnor. If he fails to pay the fine amount within a period of one week, he shall undergo simple imprisonment for fifteen days.

4. Registry shall communicate the proceedings to the first contemnor The Special Tahsildar (L.A), Chennai City Water Ways Scheme, Ambattur, Chennai - 600 053 for his appearance before this Court on 13.12.2016. On that day, both the contemnors should present before this Court.

2. Thereafter, the Special Tahsildar (LA) has filed CMP Nos. 1521 and 1522 of 2017 seeking to clarify the order dated 05.12.2016 mentioned above. When CMP Nos. 1521 and 1522 of 2017 were taken up for hearing on 10.03.2017, it was represented on behalf of the Petitioner/Special Tahsildar that the order passed by the Division Bench of this Court was complied with. However, it was felt that since the Order dated 05.12.2016 was passed by the other Division Bench, Registry was directed to post the Petitions before the concerned Division Bench after getting necessary orders from the Hon'ble Acting Chief Justice. Thereafter, as per the directions of the Honourable Chief Justice dated 21.04.2017, these petitions were listed before this Bench.

3. In the affidavit filed by the Executive Engineer, PWD, in support of CMP No. 7736 of 2017 in A.S. No. 31 of 2015, it is stated that immediately after receipt of the copy of the order dated 30.10.2015 passed by this Court directing to deposit 50% of the award amount, comprehensive proposal was sent to the Principal Secretary, Public Works Department by the Divisional Revenue Officer, Kancheepuram on 04.02.2016 for according financial sanction of the government. Such proposals were forwarded by the Public Works Department to the Revenue Department, and thereafter to the Law Department which in turn was forwarded to Finance Department for according financial sanction. Thereafter, the proposal was forwarded to the Chief Secretary, Government of Tamil Nadu for granting approval of the proposals. Finally, the proposals were circulated to Honourable Ministers for Public Works Department, Finance and the Honourable Chief Minister of Tamil Nadu. Therefore, according to the Executive Engineer, due to the above administrative reasons, the respondents could not comply with the order dated 30.10.2015 passed by this Court. It is further stated that the respondent has vigorously pursued the matter with the Government and the Government Order to this effect is expected to come at any moment. Further, the delay is entirely due to administrative process by various departments in getting financial sanction from the Government of Tamil Nadu. It is further stated that the respondent is an officer in the bottom of the hierarchy of the Government and it is for the Government to accord sanction for releasing the funds. Therefore, unless the order dated 05.12.2016 is recalled, the respondent will be put to irreparable loss and hardship. In such circumstances, the respondent prayed for recalling the order dated 05.12.2016 passed by the Division Bench of this Court.

4. We have heard the counsel for both sides and considered the averments contained in the affidavit filed in support of CMP Nos. 7736 and 7737 of 2017. We find that the various steps and efforts taken by the respondent to get approval from the Government to release the funds have not been brought forth to the notice of the earlier Division Bench of this Court while passing the order dated 05.12.2016. In such circumstances, we are inclined to allow both the petitions. Accordingly, both the petitions are ordered

and the order dated 05.12.2016 passed in CMP Nos.7159 and 7160 of 2016 in A.S. No. 31 of 2015 is recalled.

-sd/-
28/04/2017
/ TRUE COPY /

Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

THE SUBORDINATE JUDGE,
KANCHEEPURAM.

+2 C.C. to Mr.M.S.SUBRAMANIAN, Advocate SR.Nos.6176, 6177
C.C. TO GOVERNMENT PLEADER on payment of necessary charges
The Government Advocate, High Court, Madras - 104.

Order

in
CMP.7736 & 7737/2017

in
AS.31 & 32/2015

Date :28/04/2017

From 26.2.2001 the Registry is issuing certified
copies of the Interim Orders in this format
SDR 02.06.2017