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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 11.09.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

and

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.A(MD) No.398 of 2013

and

M.P(MD)No.1 of 2013

C.Maharajothi

... Appellant/Petitioner

-vs-

1. The Tamil Nadu Arasu Cable TV Corporation Ltd.,
Rep by it Managing Director,
No.11/22, Mangadusami Street,
Nungambakkam,
Chennai-600 034.

2. The District Collector,
Karur District, Karur.

3. The Special Tahsildar,
Tamil Nadu Arasu Cable TV Corporation Ltd.,
Karur.

... Respondents / Respondents

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patents Act, to allow the appeal and set aside the order of the learned Judge of this Court in W.P(MD).No.809 of 2012 dated 08.01.2013.

Prayer in WP(MD). 809/ 2012 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF CERTIORARIFIED MANDAMUS, calling for the records relating to the impugned order of the third Respondent in Na.Ka.A/1/2012, dated 11-01-2012 and quash the same and consequently directing the Respondents to permit the petitioner to function as Multi System Operator (MSO) for Karur District in the premises bearing No.1, Asath Road, Municipal Commercial Complex, Karur under the aegis of the first Respondent.

For Appellant

For Respondents

: Mr.B.Prasanna Vinoth

: Mr.B.Pugalendhi

Additional Advocate General

assisted by Mr.S.Satheesh Kumar

Additional Government Pleader

**JUDGMENT**

[Judgment of the Court was delivered by M.M.SUNDRESH, J.]

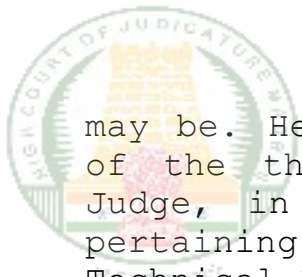
This appeal is preferred by the appellant against the order of the learned Single Judge, by which, the appellant was asked to hand over the control room as per the direction of the second respondent.

2.The learned Single Judge dismissed the writ petition by holding that there is nothing to show that the appellant was registered as a Multi System Operator (MSO). Incidentally, the learned Single Judge took note of the fact that the petitioner's husband's service was terminated by an order, dated 05.11.2011 which has not been put into challenge. It appears that he was originally appointed as Technical Advisor.

3.The learned Counsel for the appellant would submit that the machineries available in the control room belong to the appellant. Even the first respondent has recognized the appellant as Multi-System Operator (MSO). As seen from the letter, dated 21.03.2012, there is no power or authority for the third respondent to pass the impugned order, as the oral instructions of the third respondent, who is also not the competent authority. Though, there is no dispute about the machineries taken over, as acknowledged by the third respondent, they have not been returned.

4.The learned Additional Advocate General appearing for the respondents would submit that the appellant is not a Multi System Operator (MSO). The question as to whether the machineries belong to the appellant or not, is a disputed one. It is not only the case of the respondents but even the Local Cable Operators states that they belong to them. Hence, no interference is required.

5.We are on the question of validity of the impugned order passed by the third respondent. Admittedly, the impugned order has got serious civil consequence. It did take away the entire right of the appellant in one stroke. A perusal of the order passed by the first respondent would clearly show that all is not well. Further more, the said order recognized the appellant as Multi System Operator (MSO). In the said order, the Multi System Operator has failed to take appropriate action. He is not a stranger. The third respondent passed such an order and thereafter, proceed to take possession from the appellant. The second respondent is not at all an authority, who could direct even orally. The third respondent is not acting as a District Collector, nor the third respondent as a Tahsildar. The third respondent is duty bound to act as the first respondent and not as the second respondent. Therefore, the entire proceedings smacks of arbitrariness. Admittedly, the appellant was not heard. We are at
<https://hcservicescourts.gov.in/hcservices/> on what basis such oral direction was issued, dispensing with the procedure required by law to be adopted either by the first respondent or by the third respondent, as the case



may be. Hence, Looking from any perspective, upholding the order of the third respondent, on the reason of the learned Single Judge, in our considered view, cannot be sustained. The issue pertaining to termination of husband of the appellant as a Technical Advisor, is irrelevant.

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6. When the letter, dated 21.03.2012 is not in dispute, it cannot be held that the appellant was not appointed as a Multi System Operator (MSO). It is not open to the respondent to take such a Plea. For appointing Multi System Operator (MSO), there need not be any written agreement, as the same can be done, otherwise orally which appears to be done in the case on hand.

7. We also find that the list of equipment signed by the third respondent dated 11.11.2012 also show that they have been received from the appellant.

8. In such view of the matter, the impugned order stands set aside. However, liberty is given to the first respondent to proceed as per law.

9. The learned counsel for the respondent would submit that subsequently a Multi System Operator (MSO) has been appointed, who has taken charge. We are of the view that in view of the subsequent development, the appellant may not be entitled to continue as a Multi System Operator (MSO). However, the impugned order cannot be sustained.

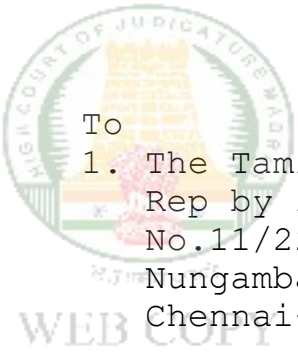
10. In the light of the above, we direct the first respondent to issue notice to the appellant within a period of four weeks from the date of receipt of a copy of this order. The appellant is at liberty to give a reply to the said notice, within a period of two weeks, thereafter. The first respondent shall take a decision by also considering the issue of handing over the equipment in favour of the appellant in the light of the order passed. Necessary orders will be passed within a period of four weeks after receiving the reply. Depending upon the order to be passed by the first respondent, the appellant can work out his remedy before the Civil Court for appropriate relief, including one for damages.

11. Accordingly, the writ appeal is allowed. No Costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (RTI)

/True copy/



To

1. The Tamil Nadu Arasu Cable TV Corporation Ltd.,
Rep by its Managing Director,
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Chennai-600 034.

2. The District Collector,
Karur District, Karur

3. The Special Tahsildar,
Tamil Nadu Arasu Cable TV Corporation Ltd.,
Karur.

+ 1 CC TO MR.B.Prasanna Vinoth, ADVOCATE IN SR No.78065

+ 3 CC TO MR.Abdul Saleem, ADVOCATE IN SR No.77845

cp/am

MK/SV MMS/SAR-4/4P/8C/20.09.2017

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