

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 03.12.2018	Delivered on 12.12.2018
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CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.3020 of 2018

M.Vengadesh

...Petitioner

.vs.

1.The District Magistrate cum
The District Collector,
Erode District, Erode.

2.The Revenue Divisional Officer,
Erode District, Erode.

3.M/s.Krishna Poultry Farm,
Rep.by its owner,
P.Kesavamoorthi,
Chinnaveerasangili Village,
Perundurai Taluk,
Erode District.

4.V.C.Palanisamy

5.Krishnamoorthy

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus calling for the records of the 1st respondent/The District Collector, Erode pertaining to the proceedings in Na.Ka.27530/2017 (C-4) dated 19.01.2018 quash the same and consequently uphold the order passed by the 2nd respondent/Revenue Divisional Officer, Erode in proceedings Na.Ka.4455/2017/Aa 2 dated 17.10.2017 and by appreciating the above stated facts and circumstances.

For Petitioner : Mr.M.Guruprasad

For Respondents : Mr.M.Mohamed Riyaz,APP for R 1 & R2
Mr.V.Karthik, Sr.counsel for R 3 & R 4
for Mr.K.S.Karthik Raja,

ORDER

This writ petition has been filed challenging the order passed by the District Collector, Erode, dated 19.01.2018, wherein, the District Collector has entertained an appeal against the order passed by the RDO, Erode, under Section 133 of Cr.P.C.

2.The learned counsel for the petitioner would submit that the District Collector, viz; the 1st respondent has no jurisdiction to entertain the appeal against the order passed by the 2nd respondent under Section 133 of Cr.P.C and the aggrieved person should have challenged the order of the Revenue Divisional Officer, passed under Section 133 of Cr.P.C only by filing an independent writ petition before this Court. Therefore, the learned counsel assailed the order of the 1st respondent mainly on the ground of lack of jurisdiction.

3.Mr.V.Karthik, learned Senior counsel for Mr.K.S.Karthik Raja, appearing for the 3rd and 4th respondent would submit that the 3rd respondent had already filed a writ petition before this Court in W.P.No.1669 of 2018, challenging the order of the 1st respondent, dated 19.01.2018, and therefore, the order passed by the District Collector, need not be gone into in this case. The learned Senior Counsel also fairly submitted that the 1st respondent may not have the jurisdiction to entertain an appeal against the order passed by the 2nd respondent under Section 133 of Cr.P.C.

4.In the considered view of this Court, the 1st respondent does not have the jurisdiction to entertain an appeal against an order passed under Section 133 of Cr.P.C. That apart, the 3rd respondent has now independently challenged the order passed by the 1st respondent in W.P.No.1669 of 2018, and therefore it is not necessary to go into the merits of the case in this writ petition, and this writ petition can be allowed on the question of lack of jurisdiction of the 1st respondent.

In the result, the impugned order of the 1st respondent dated 19.01.2018, is hereby quashed, and this writ petition is allowed. There shall be no order as to costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

KP

To

1.The District Magistrate cum
The District Collector,
Erode District,
Erode.

2.The Revenue Divisional Officer,
Erode District,
Erode.

3.The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.M.Guruprasad, Advocate Sr.No.85947

+1 cc to Mr.K.S.Karthik Raja, Advocate Sr.No.83697

Order made in
W.P.No.3020 of 2018

AK(CO)
CSL/07.01.2019



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