



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 24.09.2018

CORAM:
THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

Writ Petition No.11274 of 2017
and
W.M.P.Nos. 12199, 12200 of 2017

N.Masilamani

... Petitioner

Vs.

1. The Secretary,
Rural Development Department,
Tamil Nadu Secretariat, Fort. St. George,
Chennai - 600 009.
2. The District Collector,
Perambalur, Perambalur District.
3. The Assistant Director,
Rural Development (Audit)
Perambalur, Perambalur District.
4. The Tashildar
Taluk Office,
Kunnam Taluk,
Perambalur, Perambalur District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the sanction order issued by the 3rd respondent in Na.Ka.No.Aa4/1633/2011 dated 13.12.2011 in respect of paying compensation amount of Rs.186700/- and quash the same.

For Petitioner : Mr.G.Dakshina Murthy
for Mr.V.Ramalingam.

For Respondents : Mr.A.N.Thambidurai
Special Government Pleader for R1.

Mrs.K.Bhuvaneswari,
for R2 to R4.

O R D E R

The writ petition is filed challenging the Revenue Recovery Act Proceedings initiated by the 3rd respondent, for the recovery of Sur-charge amount recoverable from the petitioner.



2. The grievance of the petitioner is that he was the Panchayat President of Elumoor Village, Kunnam Taluk, Perambalur District, from 2006 to 2011. A Sur-charge proceedings has been initiated against the petitioner by the 3rd respondent by Order dated 13.12.2011. Challenging the above Order, the petitioner filed an appeal before the 2nd respondent, District Collector on 12.03.2012. The appeal is still pending before the 2nd respondent and so far no order has been passed. Pending appeal, now the 4th respondent passed the impugned notice initiating proceedings against the petitioner under the Revenue Recovery Act. According to the petitioner when the appeal is still pending with the 2nd respondent, before passing any orders on the appeal, no proceedings can be initiated under the Revenue Recovery Act.

3. Mrs.K.Bhuvaneswari, the learned Counsel appearing for the 2nd respondent on instructions would submit that the appeal filed by the petitioner is still pending before the 2nd respondent and the appeal will be disposed of on merits after giving opportunity to the petitioner.

4. Considering the fact that the appeal filed by the Petitioner challenging the Sur-charge proceedings is pending before the 2nd respondent/District Collector, from the year 2012, and before appeal is decided either way by the appellate authority, the 4th respondent ought not to have initiated proceedings under the Revenue Recovery Act.

5. Considering the above circumstances, without going into the merits of the case, the 2nd respondent is directed to consider the petitioner's appeal and pass suitable orders on merits and in accordance with law, after giving opportunity to the petitioner, within a period of six weeks from the date of receipt of copy of this Order. Till the final Order is passed by the 2nd respondent in the petitioner's appeal, the 4th respondent is directed not to take any distraint proceedings against the petitioner.

6. The Writ Petition is accordingly disposed of. There shall be no order as to Costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

msvm



To

1.The Secretary,
Rural Development Department,
Tamil Nadu Secretariat, Fort. St. George,
Chennai - 600 009.

2.The District Collector,
Perambalur, Perambalur District.

3.The Assistant Director,
Rural Development (Audit)
Perambalur,
Perambalur District.

4.The Tashildar
Taluk Office,
Kunnam Taluk,
Perambalur, Perambalur District.

+lcc to Mr.G.Dakshinamurthy, Advocate, S.R.No.66252
+lcc to the Government Pleader, S.R.No. 66286

Writ Petition No.11274 of 2017
and
W.M.P.Nos. 12199, 12200 of 2017

SPD(CO)

rrs 16/11/2018