

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.01.2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.19991 of 2007 and MP.No.1 of 2007

A.Mani

... Petitioner

Versus

1.The Chairman,
(Sub-Judge),
Taluk Legal Services Committee,
District Court Buildings,
Tirupattur,
Vellore District.

2.The District Munsif,
Tirupattur, Vellore District.

3.M.Thangamani

... Respondents

PRAYER: Writ petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari calling for the records of the 1st respondent in R.181/06 dated 16.11.2006 relating to O.S.No.347/04 on the file of the 2nd respondent herein and quash the same.

For Petitioner : Mr.S.Annamalai

For Respondents : No appearance

ORDER

The relief sought for in this writ petition is to call for the records in respect of the order passed by the 1st respondent in R.181/06 dated 16.11.2006 relating to O.S.No.347/04 on the file of the learned District Munsif, Tirupattur, Vellore District.

2. The learned counsel appearing for the writ petitioner made a submission that the petitioner has filed a Civil Suit in OS.No.347 of 2004, before the learned District Munsif, Tirupattur, Vellore District for declaration and for permanent injunction in respect of the property bearing S.No.83/1B2 of and S.No.83/1B1 of Periakaram Village, Tirupattur Taluk, Vellore District. IA.No.618 of 2004 was filed seeking interim injunction and the same was also ordered by the learned District Munsif, Tirupattur, Vellore District. The suit was decreed after setting exparte of the 3rd defendant and the other defendants by the 2nd respondent on 08.01.2004. This apart, the petitioner filed E.P.No.96 of 2005 also. In these circumstances, the 3rd respondent Mr.M.Thangamani, has given a letter to the 1st respondent on 01.09.2006. Based on the letter, the 1st respondent issued the impugned order in his capacity as the Chairman (Sub-Judge), Taluk Legal Services Committee, Tirupattur. (Court Buildings, Tirupattur, Vellore District). In fact, this Court is surprised to understand that how the Subordinate Judge, Tirupattur, Vellore District has passed an order on 16.11.2006, in his capacity as the Chairman, Taluk Legal Services Committee and set aside the exparte order passed in a Civil Suit in OS.No.347 of 2004. If an exparte order was passed, proper application is to be filed under the provisions of the Civil Procedure Code by entertaining the letter submitted by the 3rd respondent, no such order can be passed.

3. The 1st respondent has no authority or jurisdiction to pass an order in his capacity as Chairman, Taluk Legal Services Committee, for setting aside the exparte order. No such procedures are contemplated in the Civil Procedures Code and it is a case, where the 1st respondent has exceeded his jurisdiction and violated the rule of law and the procedures contemplated in the Civil Procedure Code.

4. Further on verification from the Registrar, High Court, Madras, it is found that during the relevant point of time, one Thiru.R.Ganesan, learned District Judge(Entry Level) was holding the post of Sub Judge / Chairman, Taluk Legal Services committee, Tirupattur Taluk, Vellore District and he was allowed to retire from service on 30.06.2016, on attaining the age of superannuation.

5. This being the factum of the case, this Court is of the opinion that the relief sought for in this writ petition deserves to be considered.

6. Accordingly, the order impugned issued by the 1st respondent in R.181/06 dated 16.11.2006 relating to O.S.No.347/04 on the file of the learned District Munsif,

Tirupattur, Vellore District is quashed and the writ petition stands allowed. No costs. Consequently connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

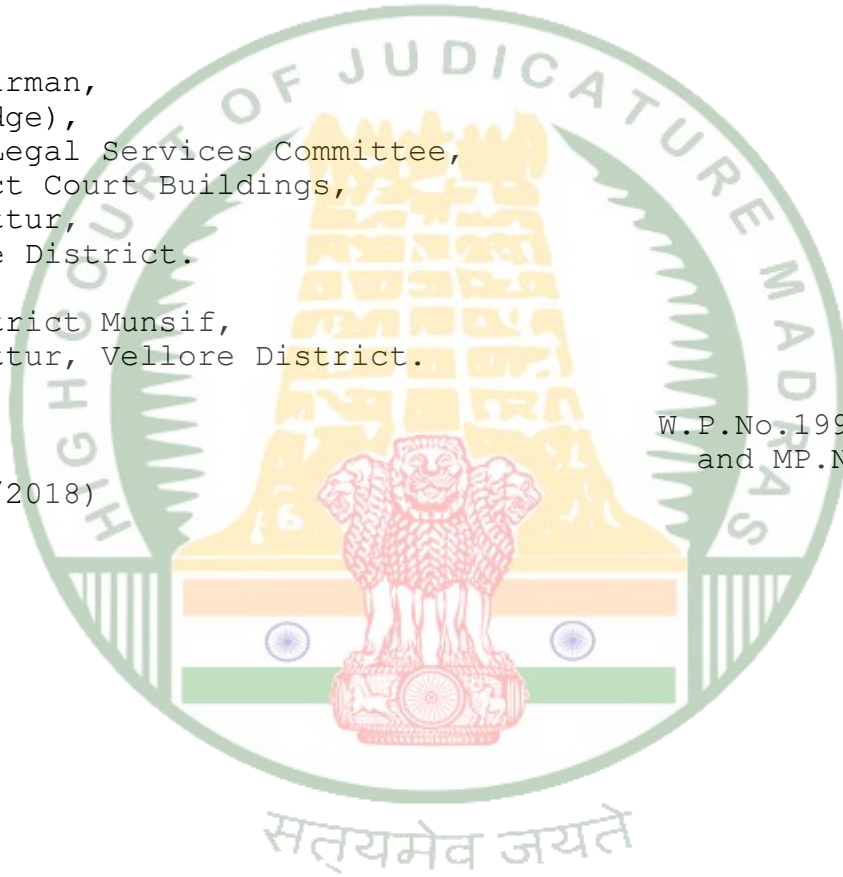
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To

- 1.The Chairman,
(Sub-Judge),
Taluk Legal Services Committee,
District Court Buildings,
Tirupattur,
Vellore District.
- 2.The District Munsif,
Tirupattur, Vellore District.

W.P.No.19991 of 2007
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RRK(13/02/2018)



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