



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.03.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P.(MD) No.6520 of 2018

and

W.M.P.(MD) Nos.6336 and 6337 of 2018

Balasubramaniam

... Petitioner

-vs-

1.The Tamil Nadu Local Body Ombudsman,
No.100, Annasalai, Guindy, Chennai - 32.

2.The Executive Officer,
Palanichattipatti Town Panchayat,
Theni District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari, calling the records relating to the proceedings of the 1st respondent in Petition No.1304/2017/Peru2/Order No.45/2018, dated 05.03.2018 and quash the same as illegal.

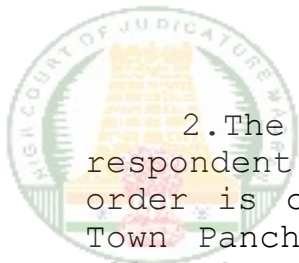
For Petitioners : Mr.R.Murali

For Respondents : Mr.D.Shanmugaraja Sethupathi for R1
Mr.T.S.Mohammed Mohideen for R2

O R D E R

(Order of the Court was made by T.S.SIVAGNANAM, J.)

Heard Mr.R.Murali, learned counsel for the petitioner and Mr.D.Shanmugaraja Sethupathi, learned counsel appearing for the first respondent and Mr.T.S.Mohammed Mohideen, learned counsel appearing for the second respondent.



2.The petitioner has challenged the order of the first respondent dated 05.03.2018. The reason for challenging the said order is on account of an apprehension that the second respondent Town Panchayat will initiate action against the petitioner on the alleged ground that the petitioner is a defaulter in payment of property tax. The problem arose on account of a mistake of this Court while disposing W.P.(MD) No.12225 of 2017, which was filed by the petitioner challenging the order passed by the first respondent dated 20.05.2017. It is stated that the said writ petition was clubbed along with other matters, where different relief was sought for and an order was passed in the writ petition on 01.08.2016, dismissing the same and giving liberty to the petitioner to represent the appeal before the first respondent.

3.The learned counsel for the first respondent vehemently states that the order is not intended to be passed in the writ petition filed by the petitioner, but passed in respect of some other writ petition and appears to have been wrongly inserted over the order dated 01.08.2017. To rectify this error, the petitioner has filed review application in Rev.Aplc(MD) SR.No.66117 of 2017, which is pending. As mentioned above, the petitioner is apprehensive that because of the impugned order, action will be initiated by the Town Panchayat.

4.In our considered view, the first respondent herein passed an order on 20.05.2017 and correctness of the same will be decided in W.P.(MD) No.12225 of 2017. Therefore, the petitioner need not have any apprehension that the impugned order will give rights to consequential proceedings by the second respondent. In fact, in the impugned order, the first respondent has not decided the petitioner's rights, but only stated that a review application to review the order dated 20.05.2017 is not maintainable. When we went through the impugned order, we find that the authority has decided the matter on merits. However, the learned counsel for the first respondent clarified that the reasons for passing the impugned order is contained only in the last paragraph. It that is so, the first respondent need not have complicated the issue in drafting such a lengthy order and could have concluded the matter by merely observing that the review application is not maintainable before the first respondent.

5.Be that as it may, the impugned order cannot in any manner prejudice the rights of the petitioner since substantive order viz., the order dated 20.05.2016 is a subject matter of W.P.(MD) No.12225 of 2017 and against the order passed in the writ petition dated 01.08.2016, review application in Rev.Aplc(MD) SR No.66117 of 2017.

6.For the above reasons, this writ petition is allowed. It is made clear that this Court has not decided on the merits of the matter and it is open to both the parties to agitate all the points



in the review application in Rev.Aplc(MD) ST No.66117 of 2017. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(W)

/True Copy/

Sub-Assistant Registrar

TO

The Tamil Nadu Local Body Ombudsman,
No.100, Annasalai, Guindy,
Chennai - 32.

+1cc to Mr.M.Suresh Kumar, Advocate, SR.No.58110

+1cc to Mr.D.Shanmugaraja Sethupathi, Advocate, SR.No.57767

+1cc to Mr.T.S.Mohammed Mohideen, Advocate, SR.no.57817

Arul

RL/5C/3P/SV/MMS/SAR2/20/4/2018

W.P.(MD) No.6520 of 2018

and

W.M.P.(MD) Nos.6336 and 6337 of 2018

26.03.2018