



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.07.2018

CORAM:

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THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU
and
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

W.A.(MD) No.196 of 2014
and
M.P.(MD) Nos.1 & 2 of 2014

Pandiyan ... Appellant / IIIrd Party

-vs-

1.P.Varadha Naicker

2.The District Collector
Karur District, Karur

3.The Project Officer
Office of the Collectorate
Karur District
Karur

4.The Commissioner
Kadavur Panchayat Union
Tharagampatty
Kadavoor Taluk
Karur District

5.The Deputy Superintendent of Police
Kulithalai
Karur District

... Respondents / Respondents

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 20.04.2011, made in W.P.(MD) No.1520 of 2011, on the file of this Court.

Prayer in WP(MD). 1520/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the 3rd respondent to implement his order in Na.Ka.NO. A2/614/2010 dated 27/08/2010 with the help of the 4th respondent and consequently remove the petitioner small hut and construct the concrete permanent house in Natham Survey No. 392/8B in Patta No. 566 an extent of 0.25 Cents situate in Parapatty, Vellapatty village, Kadavoor Panchayat Union of Kadavoor taluk, Karur district.



For Appellant : Mr.K.V.Shanmuganathan

For Respondents : Mr.K.Asok Kumar Ram for R1
Mr.K.Mu.Muthu

Additional Government Pleader for R2 to R5

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J U D G M E N T

[Judgment of the Court by K.RAVICHANDRABAABU, J.]

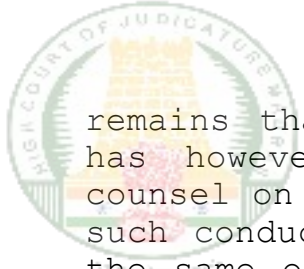
The present writ appeal is filed by a third party to the writ petition in W.P.(MD) No.1520 of 2011.

2. The first respondent / writ petitioner sought for mandamus directing the Commissioner, Kadavoor Panchayat Union, to implement his order dated 27.08.2010 with the help of the Deputy Superintendent of Police, Kulithalai and consequently remove the writ petitioner's small hut and construct a concrete permanent house in the land, comprised in Natham Survey No.392/8B of Parapatty Vellapatty Village, Kadavoor Panchayat Union, Kadavoor Taluk, Karur District.

3. The Writ Court, by an order dated 20.04.2011, disposed the writ petition with a direction to the Commissioner, Kadavoor Panchayat Union, to implement the order dated 27.08.2010 with further direction to the Deputy Superintendent of Police, Kulithalai, to give due protection to do the work and complete the same. Challenging the said order, the appellant herein, being a third party to the proceedings, after obtaining leave, filed the present writ appeal on 19.07.2011. This Court admitted the writ appeal on 26.02.2014.

4. However, the very same appellant filed another writ appeal in W.A.(MD) No.1066 of 2013 on 05.08.2011, against the very same order passed in W.P.(MD) No.1520 of 2011, dated 20.04.2011, by engaging a different counsel. The said writ appeal was disposed of on 13.06.2017 by giving liberty to the appellant to approach the Civil Court for appropriate declaratory relief. Now, the present writ appeal is posted before us for final disposal. When the matter was taken up on 19.07.2018, it was informed by the learned counsel appearing for the first respondent that the very same appellant filed another appeal in W.A.(MD) No.1066 of 2013 and the same was also disposed of by the Division Bench. Hence, we have posted this matter for orders in order to verify the above stated facts with regard to the filing of two appeals arising out of the same order by the same appellant.

5. Today, when the matter was listed, the Registry has posted the other writ appeal in W.A.(MD) No.1066 of 2013, which got already disposed of on 13.06.2017, along with this writ appeal. Perusal of the Judgment dated 13.06.2017 made in W.A.(MD) No.1066 of 2013 would clearly indicate that the very same appellant has filed the above appeal and got the same disposed of on 13.06.2017. Thus, the fact



remains that the appellant, having filed the present writ appeal, has however chosen to file another appeal through a different counsel on 05.08.2011 for the reasons best known to him. Certainly, such conduct of the appellant of filing two appeals arising out of the same order suppressing the filing of earlier appeal, cannot be condoned as a matter of course, even though the other appeal filed by the very same appellant in W.A.(MD) No.1066 of 2013 was disposed of on 13.06.2017 directing the appellant to approach the Civil Court. The very filing of W.A.(MD) No.1066 of 2013, when admittedly the earlier appeal filed by the appellant herein, namely, W.A.(MD) No.196 of 2014 is pending, is nothing but an abuse of process of Court not only by suppressing the material facts and also with an intention apparently to get some orders ex parte. This conduct of the appellant cannot be left as it is without imposing cost on him.

6. Accordingly, this writ appeal is dismissed not only in view of the conduct of the appellant as stated supra and also on the fact that the another writ appeal filed by the very same appellant arising out of the very same order was already disposed of on 13.06.2017 as stated supra. The appellant is also directed to pay a sum of Rs.25,000/- (Rupees twenty five thousand only) as cost payable to the Honourable Chief Justice Relief Fund, within a period of four weeks from the date of receipt of a copy of this Judgment, failing which, the same shall be recovered from the appellant by way of revenue recovery proceedings. Consequently, connected miscellaneous petitions are closed.

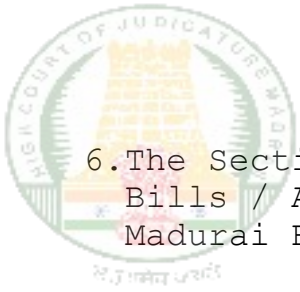
Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar(CS-II)

To:

- 1.The District Collector,
Karur District, Karur.
- 2.The Project Officer,
Office of the Collectorate,
Karur District, Karur.
- 3.The Commissioner,
Kadavur Panchayat Union,
Tharagampatty, Kadavoor Taluk,
Karur District.
- 4.The Deputy Superintendent of Police,
Kulithalai, Karur District.
- 5.The Registrar (Judicial),
Madurai Bench of Madras High Court, Madurai.



6.The Section Officer,
Bills / A/c Section,
Madurai Bench of Madras High Court, Madurai.

+1cc to M/S.K.Asok Kumar, Advocate SR.No. 74311

+1cc to M/S.A.Jayaramachandran, Advocate SR.No. 74742

+1cc to Special Government Pleader, SR.No. 74327

W.A.(MD) No.196 of 2014

and

M.P.(MD) Nos.1 & 2 of 2014

23.07.2018

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JM/KAK/SAR 2/07.08.2018/4P/10C