



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 12.07.2018
CORAM

THE HONOURABLE MR.JUSTICE M.DURAISWAMY
and
THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.(MD) No.12209 of 2018
and
W.M.P.(MD)No.11106 of 2018
and
W.A.(MD)No.668 of 2018
and
C.M.P.(MD)No.3747 of 2018

W.P.(MD)No.12209 of 2018:

P.Maharajothi

...Petitioner

Vs.

1. The District Collector,
Karur District, Karur-639 007.
2. The Superintendent of Police,
Karur District, Karur-639 007.
3. The Special Tahsildar,
Tamil Nadu Arasu Cable TV,
Karur, Karur District.
4. Balasubramani,
P.A. to District Civil Supply Officer,
Collector Office, Karur-639 001.
5. Moorthy,
Special Tahsildar Stamps(under 47(A)),
Taluk Office, Karur - 639 001.
6. Rathinavelu,
Deputy Tahsildar, Taluk Supply Officer,
Room No.114, Collector Office, 1st floor,
Karur - 639 007.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records relating to the impugned order in Na.Ka.A.Ca.TV.No.148/2015, dated 12.04.2017, passed by the third respondent and quash the same as illegal.



For Petitioner : Mr.B.Prasanna Vinoth

For Respondents : Mr.M.Jeyakumar
Additional Government Pleader
for R.1 and R.2

: Mr.S.Gunasekaran for R.3

: Mr.S.Suresh Kumar for R.4

: Mr.S.Jayavel for R.5 and R.6

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W.A. (MD) No. 668 of 2018:

P.Maharajothi

...Appellant/Petitioner

Vs.

1. The District Collector,
Karur District,
Karur-639 007.

2. The Superintendent of Police,
Karur District,
Karur-639 007.

3. The Special Tahsildar,
Tamil Nadu Arasu Cable TV,
Karur, Karur District.

4. Balasubramani,
P.A. to District Civil Supply Officer,
Collector Office, Karur-639 001.

5. Moorthy,
Special Tahsildar Stamps(under 47(A)),
Taluk Office, Karur - 639 001.

6. Rathinavelu,
Deputy Tahsildar,
Taluk Supply Officer,
Room No.114, Collector Office,
1st floor, Karur - 639 007.

...Respondents

PRAYER: Appeal filed under Clause 15 of Letters Patent against the order passed by this Court dated 14.11.2016 made in W.P.(MD)No.777 of 2016.

Prayer in WP(MD)No. 777/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the 1st respondent to take disciplinary action against the 4th to 6th respondents for misusing their official capacity for illegally sealing the petitioners premises and cutting the petitioners optic fiber network, based on the petitioners representation dated



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For Appellant : Mr.B.Prasanna Vinoth
For Respondents : Mr.M.Jeyakumar
Additional Government Pleader
for R.1 and R.2
: Mr.S.Gunasekaran for R.3
: Mr.S.Suresh Kumar for R.4
: Mr.S.Jayavel for R.5 and R.6

COMMON JUDGMENT

(Judgment of the Court was made by M.DURAISWAMY.,J)

Challenging the order passed in W.P.(MD)No.777 of 2016, the writ petitioner has filed the above Writ Appeal.

2. The appellant/writ petitioner filed a writ petition in W.P.(MD)No.777 of 2016 to issue a Writ of Mandamus directing the first respondent to take disciplinary action against the respondents 4 to 6 for misusing their official capacity for illegally sealing the petitioner's premises and cutting the petitioner's optic fiber network, based on the petitioner's representation, dated 05.12.2015.

3. After hearing the learned Counsel appearing on either side, the learned Single Judge, disposed of the writ petition, directing the third respondent to consider the petitioner's representation, dated 05.12.2015, after giving an opportunity to the petitioner as well as any rival claimant, if any and pass orders on merits and in accordance with law within a period of twelve weeks.

4. Now the grievance of the appellant/writ petitioner is that the third respondent, who is the Special Tahsildar of the Tamil Nadu Arasu Cable TV Corporation and who in the first place committed the illegality and the direction given to the third respondent to consider the petitioner's representation would amount to violation of the principle that no man can be a judge of his own case.

5. The learned Counsel appearing for the appellant/writ petitioner submitted that instead of the third respondent, the first respondent may be directed to consider the petitioner's representation dated 05.12.2015 in accordance with law.

6. Mr.M.Jeyakumar, learned Additional Government Pleader appearing for the respondents 1 to 3 submitted that the respondents 1 to 3 have no objection for giving a direction to the first respondent to consider the petitioner's representation dated 05.12.2015.

7. Subsequent to the passing of the order in W.P.(MD)No.777 of 2016, the third respondent considered the appellant/writ petitioner's representation dated 05.12.2015 and passed orders on 12.04.2017, whereby the third respondent rejected the case of the appellant/writ petitioner.



8. Since the appellant/writ petitioner apprehended that the third respondent, against whom the allegations are levelled, cannot judge his own case, we are of the considered view that instead of the third respondent, it would be proper to direct the first respondent/District Collector, Karur District to consider the petitioner's representation, for which, the learned Additional Government Pleader has no objection.

9. In view of the same, we direct the first respondent/District Collector, Karur District to consider the petitioner's representation dated 05.12.2015 afresh on merits and accordance with law, after affording due opportunity of personal hearing to all the interested parties within a period of eight weeks from the date of receipt of a copy of this judgment.

10. Since we have directed the first respondent/District Collector, Karur District to consider the petitioner's representation dated 05.12.2015 afresh, the order passed by the third respondent, dated 12.04.2017, pursuant to the order passed in W.P.(MD)No.777 of 2016, is liable to be set aside. Accordingly, the same is set aside.

11. With these observations, the Writ Appeal and also the Writ Petition are allowed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar(CS-I)

To

1. The District Collector, Karur District, Karur-639 007.
2. The Superintendent of Police, Karur District, Karur-639 007.
3. The Special Tahsildar, Tamil Nadu Arasu Cable TV, Karur, Karur District.

+1CC to Mr.B.Prasanna Vinoth, Advocate, SR.No. 72665

+1CC to Mr.S.Gunasekaran, Advocate, SR.No.72580

+1CC to the Special Government Pleader SR.Nos. 72809,72810

W.P.(MD) No.12209 of 2018 and
W.M.P.(MD)No.11106 of 2018 and
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