



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Monday, the Twenty First day of January Two Thousand Nineteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice K.K.SASIDHARAN
and
The Hon`ble Mr.Justice G.R.SWAMINATHAN

WMP(MD) No.15789 of 2017
IN
WP(MD) No.17264 of 2017

THE MANAGING DIRECTOR,
M/S.MEENAKSHI HOSPITAL,
NILAGIRI VILLAGE, THANJAVUR.

... PETITIONER/
SIXTH RESPONDENT

Vs

1 R.DEIVAM

... FIRST RESPONDENT/
PETITIONER

2 THE STATE OF TAMIL NADU,
REPRESENTED BY ITS SECRETARY,
HOUSING AND URBAN DEVELOPMENT,
FORT ST.GEORGE,
CHENNAI - 600 009.

... SECOND RESPONDENT/
FIRST RESPONDENT

3 THE DIRECTOR OF TOWN AND COUNTRY PLANNING,
DIRECTORATE OF TOWN AND COUNTRY PLANNING,
OPPOSITE TO LIC, SENGALVARAYAN BUILDING,
4TH FLOOR, 807, ANNA SALAI,
CHENNAI 02.

... THIRD RESPONDENT/
SECOND RESPONDENT

4 THE COMMISSIONER,
THANJAVUR MUNICIPALITY,
THANJAVUR - 613 007.

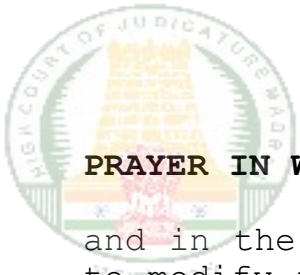
... FOURTH RESPONDENT/
THIRD RESPONDENT

5 THE MEMBER SECRETARY,
LOCAL PLANNING AUTHORITY,
NO.33, 4TH STREET, RAJAPPA NAGAR,
MEDICAL COLLEGE ROAD,
THANJAVUR.

... FIFTH RESPONDENT/
FOURTH RESPONDENT

<https://hcservices.ecourts.gov.in/hcservices/>
6 THE DISTRICT FIRE SERVICE OFFICER,
THANJAVUR - 613 007.

... SIXTH RESPONDENT/
FIFTH RESPONDENT



PRAYER IN WMP(MD) No.15789 of 2017 IN WP(MD) No.17264 of 2017:

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to modify the order passed by this Honble Court dated 22.09.2017 in WP(MD)No.17264 of 2017 by directing the Registrar of this Honble Court to prefer a Complaint under section 191 IPC against the petitioner in WP(MD)No.17264 of 2017 R.Deivam in terms of section 340 (1) (b) of the code of criminal procedure before the competent Judicial Magistrate Court Madurai and also impose the cost of Rs.10.00 lakhs instead of Rs.5,000/-.

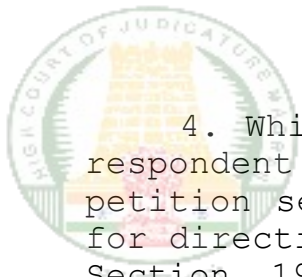
ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.K.SUBRAMANIAN, Senior Counsel for MR.S.RAMESH, Advocate for the petitioner and of MR.A.K.BASKARAPANDIAN, Special Government Pleader for R1,R2,R4 & R5, and MR.N.DILIP KUMAR, Advocate for R3, the court made the following order:-

[Order of the Court was made by G.R.SWAMINATHAN, J.]

The first respondent in this Miscellaneous petition filed W.P. (MD)No.17264 of 2017 for directing the Governmental authorities to take action against the petitioner herein to ensure that the fire safety arrangements and the life safety measures are put in place as per the National Building Code 2005 in the hospital building constructed by the petitioner herein at Thanjavur.

2. The matter was listed for admission on 13.09.2017 before us. Since even a *prima facie* perusal of the averments set out in the affidavit filed in support of the Writ petition aroused our suspicion that the Writ petition has not been filed in Public Interest as claimed by the first respondent, we issued certain directions to the police authorities.

3. The matter was taken up on 22.09.2017. The call records produced by the learned Special Government Pleader clearly established that the first respondent herein was available only at Madurai on the date, when he claimed to have visited the Meenakshi Mission Hospital, Thanjavur. We were also informed by the official respondents that in respect of the very same subject matter, Writ petitions claiming to have been filed in Public Interest were moved before this Bench. It was obvious that the first respondent had been set up to file the said Writ petition to target the petitioner herein at the instance of persons who are inimically disposed towards the petitioner herein. In fact we were also informed that in the earlier round, exemplary and punitive costs were imposed by the Hon'ble Supreme Court. Bearing all these aspects in mind, we not only dismissed the Writ petition, but also levied cost of Rs.5,000/- on the first respondent herein. The cost amount has since been remitted by the first respondent.



4. While so, the petitioner herein who was shown as the sixth respondent in the main Writ petition has moved this Miscellaneous petition seeking modification of the earlier order dated 22.09.2017 for directing the Registry of this Court to prefer a complaint under Section 191 of I.P.C. against the first respondent herein by following the procedure laid down in Section 340 of Cr.P.C. The petitioner also wants this Court to enhance the cost amount from Rs.5,000/- to Rs.10,00,000/-.

5. Heard the learned Senior counsel appearing for the petitioner herein.

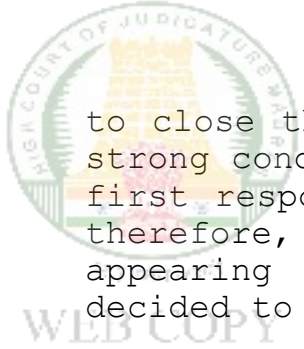
6. The learned Senior counsel took us through the various decisions of the Hon'ble Supreme Court, particularly, the one reported in (2010) 3 SCC 402 (State of Uttaranchal Vs. Balwant Singh Chauhal and others). He pointed out that this is not the first time that the P.I.L. jurisdiction has been misused and abused. The petitioner has been successively targeted at the instance of persons who are ill disposed towards him. Since the Hon'ble Supreme Court in the earlier round had levied punitive costs, he wanted this Court to adopt the very same approach in the present case also.

7. No doubt the contentions of the learned Senior counsel merit our serious consideration. In fact no exception can be taken to his submissions. But then, we must point out that all the materials now placed before us were already brought to our attention by the learned Special Government Pleader. Thiru.M.Govindan, the then Special Government Pleader appeared for the planning authority in W.P.(MD)No.7553 of 2015. He again appeared as a Special Government Pleader in W.P.(MD)No.658 of 2016. He was the counsel who again represented the authorities arrayed as respondents in W.P.(MD) No.17264 of 2017 filed by the first respondent herein. Thus the learned Senior counsel is not right in assuming that all the antecedent facts were not brought to our knowledge.

8. We are not inclined to allow this Miscellaneous petition principally for the reason that the Writ petition filed by the first respondent suffered dismissal at the threshold stage. We did not even issue notice to the present petitioner herein. Therefore, the petitioner herein cannot be aggrieved in any manner.

9. More than anything else, it is not for the petitioner to insist that this Court should direct prosecution against the first respondent under Section 340 of Cr.P.C. This is a matter that is entirely between the Court and the concerned litigant. Of course, the petitioner herein is entitled to bring it to our knowledge that the first respondent had committed the offence under Section 191 of I.P.C. and that he deserves to be prosecuted.

10. We are conscious of the fact that the first respondent was a tool at the hands of certain forces. We therefore, though it fit



to close the matter by dismissing his Writ petition in limine with strong condemnatory remarks and by levying a cost of Rs.5,000/-. The first respondent appears to be from a very ordinary background and therefore, when we levied a higher cost, the learned counsel appearing for the litigant prayed for mercy and that is why we decided to reduce the same.

11. Since no notice was issued to the Writ petitioner herein and the matter suffered dismissal at the admission stage itself, the petitioner ought not to feel aggrieved.

12. In the result, W.M.P.(MD)No.15789 of 2017 stands dismissed.

sd/-
21/01/2019

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE STATE OF TAMIL NADU,
REPRESENTED BY ITS SECRETARY,
HOUSING AND URBAN DEVELOPMENT,
FORT ST.GEORGE, CHENNAI - 600 009.
 - 2 THE DIRECTOR OF TOWN AND COUNTRY PLANNING,
DIRECTORATE OF TOWN AND COUNTRY PLANNING,
OPPOSITE TO LIC, SENGALVARAYAN BUILDING,
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MEDICAL COLLEGE ROAD, THANJAVUR.
 - 4 THE DISTRICT FIRE SERVICE OFFICER,
THANJAVUR - 613 007.
- +1. C.C. to Mr.R.RAJAMOHAN, Advocate SR.No.984

ORDER
IN
WMP(MD) No.15789 of 2017
IN
WP(MD) No.17264 of 2017
Date :21/01/2019