

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:21.09.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.13128 of 2020

and

W.M.P.Nos.16254 and 16255 of 2020

Mrs. R. Jayalakshmi

...Petitioner

Vs.

The Sub - Divisional Executive Magistrate
cum Revenue Divisional Officer
Coimbatore North
Coimbatore District.

... Respondent

PRAYER: This writ petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari call for the records of the impugned order of the respondent vide Na.Ka.No. 2189/2020/A1 dated 10.08.2020 and quash the same.

For Petitioner : Mr.V. Arun

For Respondent : Mr.M.Elumalai

Additional Government Pleader

ORDER

This petition has been filed challenging the impugned order of the respondent vide Na.Ka.No. 2189/2020/A1 dated 10.08.2020 and quash the same.

2. The learned counsel for the petitioner submitted that the petitioner is running a small scale unit of manufacturing "Eco-sawdust bricks/ cubicles" in the name and style of M/s J.Bio Fuels as proprietary concern. While manufacturing the bricks, there was obstruction by some of the persons belonging to that area, therefore, the petitioner lodged a complaint on 29.07.2020 in Sirumugai police station. On receiving the said complaint, the Inspector of police, issued CSR No.114 of 2020 to the petitioner. While pending enquiry on the complaint, the petitioner received the impugned notice from the respondent, wherein he was directed to appear before the Magistrate on 17.08.2020, for initiation of proceedings under Section 107 of Cr.P.C.

3. He would further submit, that without taking any action on the complaint lodged by the petitioner, the respondent has referred for initiation of proceedings Under Section 107 of Cr.P.c. He would also submit that infact on 17.08.2020, when he appeared before the Magistrate, no enquiry was conducted and the entire proceedings are nothing, but a clear abuse of process of law and therefore, he sought for quashment of impugned summons issued by the respondent.

4. Per contra the learned Additional Government Pleader Mr.Elumalai, appearing for the respondent submitted that the summons in this writ petition is only summons connected to the petitioner to appear before the respondent for initiation of proceedings under Section 107 of Cr.P.C. No order has been passed under Section 107 of Cr.P.C as against the petitioner and he would further submit that the hearing date was fixed on 17.08.2020.

5. It is seen from the impugned notice dated 10.08.2020 issued by the respondent, the petitioner was directed to appear before the respondent on 17.08.2020 at about 11:30 a.m. Now, according to the petitioner, no enquiry was conducted on that day fixed by the respondent herein. It is also seen that in the complaint lodged by the petitioner, she was issued CSR 114 of 2020 and thereafter, the Inspector of Police Sirumugai Police Station, referred the complaint to the respondent for initiation of proceedings Under Section 107 of Cr.P.C. In pursuance to the direction of the respondent, they have initiated proceedings under Section 107 of Cr.P,c and issued summons to the petitioner.

6. Therefore, it is only a initiation of proceedings under section 107 of Cr.P.C. Now, the hearing date fixed by the respondent is also expired and such summons issued by the respondent has become infructuous. Therefore, the petition is devoid of merits and accordingly dismissed. Consequently the connected miscellaneous petitions are closed. No Costs. However, the petitioner is at liberty to challenge the impugned order passed by the respondent under Section 107 of Cr.P.C in the manner if so advised.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

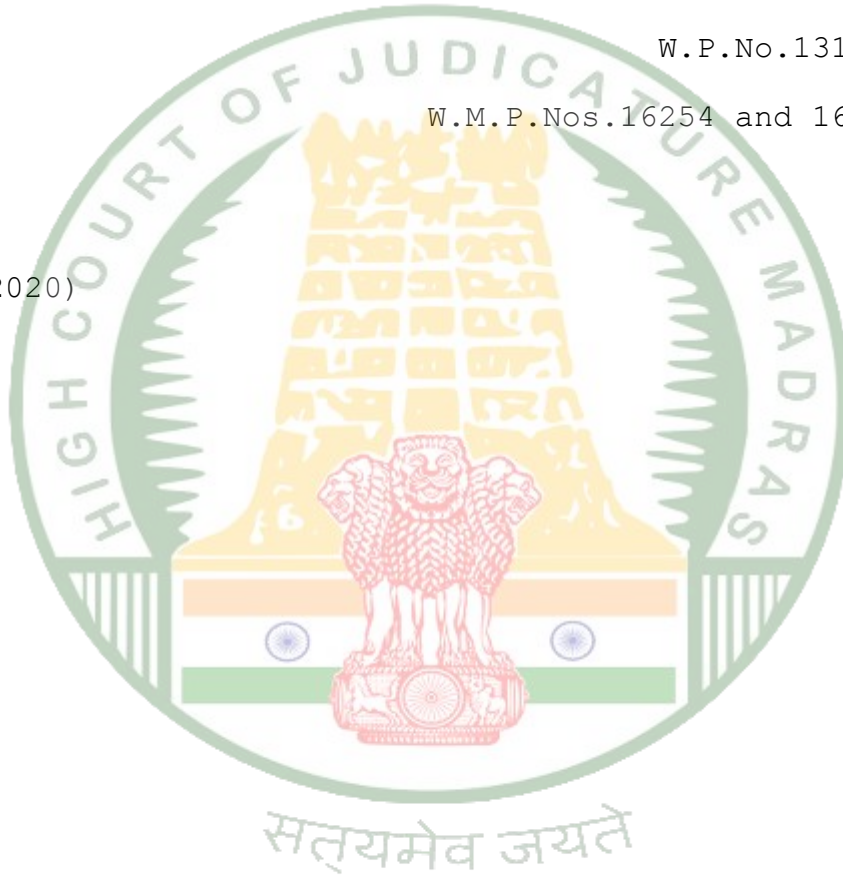
To

1. The Sub - Divisional Executive Magistrate
cum Revenue Divisional Officer
Coimbatore North
Coimbatore District.

+1 Cc to The Govt. Pleader sr 31151.
+1 CC to Mr.V. Arun, Advocate sr 30861.

W.P.No.13128 of 2020
and
W.M.P.Nos.16254 and 16255 of 2020

AJS (CO)
SP(04/11/2020)



WEB COPY