

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 22.12.2020

PRONOUNCED ON : 08.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CRP(PD)No.916 of 2016
CMP.No.5132 of 2016

(Through Video Conferencing)

R.Kamalanathan, Personal Assistant
District Supply Office, Dharmapuri
now working as Deputy Collector
CMWSSB, Chennai

Petitioner

Vs

A.Ramesh

Respondent

Prayer:- This Civil Revision Petition has been filed, under Section 227 of the Constitution of India, against the fair and decreetal order, dated 16.10.2015, passed in IA.No.489 of 2014 in OS.No.33 of 2013, by the Subordinate Judge, Dharmapuri.

For Petitioner : Mr.S.Saravanakumar

For Respondent : Mr.P.Valliappan

ORDER

1. This Civil Revision Petition has been filed, against the fair and decreetal order, dated 16.10.2015, passed in IA.No.489 of 2014 in OS.No.33 of 2013, by the Subordinate Judge, Dharmapuri.
2. The facts of the case, in a nutshell, are that the Defendant is the Petitioner

and the Respondent is the Plaintiff. The present suit was filed against the Petitioner for compensation with interest, for having denied the issuance of community and nativity certificates, pursuant to the judgement and decree passed in the earlier suit filed for declaration of community and for direction to issue community and nativity certificates. In the present suit, the present application was filed by the Defendant to reject the plaint. By the impugned order, the court below had dismissed the said application. Hence, this Civil Revision Petition has been filed by the Defendant.

3. This court heard the learned counsel on either side and considered their submissions and also carefully perused the materials placed on record.
4. According to the Petitioner, the alleged act in denying the issuance of certificates, was done by him in his official capacity and as such, no suit would lie against him as an individual, seeking compensation and even the earlier suit ought not to have been entertained since the civil court has no jurisdiction to issue such directions for issuance of community certificate and hence, no cause of action would arise against him.
5. It is the stand of the Respondent that after passing of the judgement and decree in the earlier suit filed for declaration of community and for direction to issue community and nativity certificates, the Petitioner had denied issuance of the said certificates and only after his transfer, the Respondent was able to get the said certificates from his successor, after two years, which caused prejudice to him and hence, the Petitioner is liable to pay the compensation. Reliance is placed on **2020 1 CTC 275 (Loom Tex Exports**

Vs. Thanneer Panthal Dharma Chathiram) and 2018 4 CTC 206
(Chhotanben Vs. Kiritbhai Jalkrushnabhai Thakkar).

6. It is seen from the records that the earlier suit filed for declaration of community and mandatory injunction to direct the concerned Tahsildar, to issue the said certificates, by the Respondent was decreed partly, directing the Petitioner, who was working as the Tahsildar, Dharmapuri, to issue the said certificates.
7. Pursuant to the judgement and decree passed in the earlier suit, the said certificates were not issued during the tenure of the Petitioner. After transfer of the Petitioner, the Respondent was able to get the said certificates from the then Tahsildar after two years. The present suit was filed by the Respondent, seeking compensation against the Petitioner, for having denied to issue the certificates during his tenure.
8. It is seen that the earlier suit was filed against the Petitioner in his official capacity. But, pursuant to the judgement and decree passed in the earlier suit, when the acts in denying the issuance of the certificates were done by the Petitioner in his official capacity on behalf of the Department concerned, the present suit was filed against the Petitioner, in his individual capacity, without impleading the authorities concerned. Hence, the present suit, as framed, is not maintainable, in other words, the Plaintiff should have filed the suit against the Defendant in his official capacity. If the Plaintiff has any grievance, it should be only against the concerned Department, which is responsible for issuance of such certificates and not against the individual.

A.A.NAKKIRAN, J.

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It is pertinent to note that the court below, which had directed for issuance of the said certificates, has no jurisdiction to issue such directions and hence, no cause of action can be attributed to the Petitioner herein. In such view of the matter, it can be safely concluded that without considering those aspects, the court below had erroneously dismissed the application to reject the plaint by the impugned order, which cannot be sustained and warrants interference by this Court.

9. In fine, this Civil Revision Petition is allowed. No costs. Consequently, the connected MP is closed.

08.01.2021

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
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To

1. The Subordinate Judge, Dharmapuri

Pre-Delivery Order in
CRP(PD)No.916 of 2016

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