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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24-11-2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.25078 of 2021

And

WMP No.26419 of 2021

K.Manonmani

.. Petitioner

vs.

1. The District Collector,
Coimbatore District,
Coimbatore - 641 018.

2. The Personal Assistant (Development)
to the Collector,
Coimbatore - 641 018.

3. The Block Development Officer,
Pollachi (North) Zone,
Pollachi - 642 001.

4. The Tahsildar,
Pollachi Taluk,
Pollachi - 642 001.

.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records relating to the Notice in Na.Ka.No.1879/2021/bf1. dated 25.06.2021 and the order in Ref.No.19421/2021/D3, dated 06.10.2021, on the file of the first respondent and quashing the same as null and void.

For Petitioner : Mr.P.Raja

For Respondents : Mr.E.Vijay Anand,
Additional Government Pleader.

O R D E R

The order dated 25.06.2021 and the consequential order dated 06.10.2021 passed by the first respondent, are under challenge in the present writ petition.



2. The main contention raised in the writ petition is that an order of recovery determining the loss was passed by the first respondent in proceedings dated 25.06.2021 without providing an opportunity to the petitioner and without conducting any enquiry. Based on the said order dated 25.06.2021, the first respondent further initiated action by invoking the provisions of the Tamil Nadu Revenue Recovery Act, 1864.

3. The learned counsel for the petitioner relied on the representation submitted by the petitioner wherein the petitioner has stated that the first respondent before passing the order dated 25.06.2021, no explanation was called for nor enquiry has been conducted.

4. This Court is of the considered opinion that no doubt the first respondent would determine the loss to be recovered from the petitioner. However, the petitioner must be provided with an opportunity to defend her case in respect of the loss determined by the Authorities. Such a valuable opportunity cannot be denied in view of the fact that the order dated 25.06.2021 determining the financial loss would prejudice the interest of the petitioner. Thus, the order dated 25.06.2021 passed by the first respondent without providing an opportunity to the petitioner, is in violation of the principles of natural justice.

5. Accordingly, the order impugned passed by the first respondent in Na.Ka.No.1879/2021/bf1 dated 25.06.2021 and the consequential order passed by the first respondent in Ref.No.19421/ 2021/D3 dated 06.10.2021 are quashed. The first respondent is directed to provide an opportunity to the petitioner to submit her explanations/ objections along with the documents and thereafter decide the issues. In this regard, the petitioner is directed to submit her explanations/objections along with the documents, if any, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such explanations/objections from the petitioner, the first respondent is directed to conduct an enquiry by affording opportunity to the petitioner and decide the issues on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of the explanations/objections from the petitioner. The first respondent is directed to give an opportunity of one personal hearing to the petitioner to explain her case, as the petitioner pleads that she is no way connected with the financial loss.



6. With the abovesaid directions, the writ petition stands allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

Svn

To

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+1cc to Mr.P.Raja, Advocate, S.R.No.60975

WP 25078 of 2021

GPL(CO)
SU(03/12/2021)