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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2021

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and
THE HON'BLE MS.JUSTICE R.N.MANJULA

W.A.No.2254 of 2018
and C.M.P.No.17975 of 2018

Pavadaisamy .. Appellant

Vs

1. Krishnamurthy
2. The District Collector,
Puducherry.
3. The Specified Officer,
Villianur Taluk Office,
Villianur.
- 4.Uma Maheaswari

.. Respondents

Appeal filed under Clause 15 of the Letters Patent against the order dated 11.06.2018 made in W.P.No.19686 of 2012.

Prayer in W.P.No.19686 of 2012: Writ of certiorari to call for the records, dated 06.07.2012 in Settlement Appeal No.2/2011 on the file of the 1st respondent and quash the same as illegal.

For Appellant : Mr.R.Thiagarajan

For Respondents : Mrs.Chitra Sampath, Sr. Counsel
for Mr.T.S.Baskaran for R1

Mr.S.John J.Raja Singh,
Government Counsel for R2 and R3

No appearance for R4

JUDGMENT

(Delivered by M.M.SUNDRESH, J.)

This appeal is filed against the portion of the order of the learned Single Judge, who while confirming the order impugned in the writ petition dated 06.07.2012, set aside the



part of it by which, the second respondent has directed the Station House Officer, Thirukkanur to register a criminal case against the contesting respondent pursuant to the order passed.

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2. The learned Single Judge has held that the issue before the second respondent was different and the contesting respondent has not been heard with respect to the alleged cheating and forgery. It is further held that these are all matters for investigation on a complaint, if any given or to be given by the appellant.

3. Learned counsel appearing for the appellant submitted that the Station House Officer closed the complaint given by the appellant placing reliance upon the order of the learned Single Judge. The contesting respondent viz., first respondent has committed fraud and forgery. In such view of the matter, the order passed requires interference.

4. Learned Senior Counsel appearing for the first respondent submitted that a comprehensive suit was filed before the I Additional District Munsif, Puducherry in O.S.No.724 of 2013 and the trial was already over and the matter is posted for arguments. The learned Single Judge is perfectly right in holding that the second respondent has taken up the issue, which is not germane to the appeal. There is no power or authority to direct the Station House Officer to register a complaint and investigate, particularly, in the light of the pendency of the civil proceedings.

5. The appeal lies in a very narrow compass. The learned Single Judge, in our considered view, is perfectly right in setting aside that part of the order under challenge as the second respondent ought not to have gone into the issue of fraud and forgery leading to registration of the complaint. This was sought to be done pursuant to the orders passed by the second respondent dated 06.07.2012.

6. It is no doubt true that the law can be set in motion when a cognizable offence is made out by asking the Station House Officer to register the complaint. However, the role of the second respondent is different and separate. He being the appellate authority is governed by the statute. His powers are circumscribed by the statute. The question as to whether such a direction can be given was not part of the adjudication



emanated as a consequence to the decision made. After all, the second respondent was expected to deal with the administrative action having civil consequence. Even assuming that it is a quasi-judicial, such a power cannot be exercised.

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7. However, we could see the grievance of the appellant. The appellant can maintain the complaint if a cognizable offence is made out seeking registration. The order passed by the learned Single Judge has got no bearing to the aforesaid action. In such view of the matter, we would only clarify that the order of the learned Single Judge will not stand in the way of the appellant to take appropriate action including the complaint being given for registration of a cognizable offence. We also make it clear that mere pendency of the civil suit will not have a bearing for registration of a complaint provided cognizable offence is made out.

8. With the above said observation, this writ appeal stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CCC)

//True copy//

Sub Assistant Registrar

mmi/ssm

To

1. The District Collector,
Puducherry.
2. The Specified Officer,
Villianur Taluk Office,
Villianur.

+1cc to Mr.T.S.Baskaran, Advocate SR.No.28251

W.A.No.2254 of 2018

RK(CO)
RLP(15/07/2021)