



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A.[MD]Nos.1446 and 1447 of 2021

and

CMP(MD)Nos.5937 and 5938 of 2021

P.Mukesh ... Appellant / 5th Respondent in both appeals

Vs.

1.P.Virumandi ... 1st Respondent/Petitioner in both appeals

2.The Commissioner,
Office of the Commissioner,
Madurai Corporation,
Anna Nagar, Madurai District.

3.The Deputy Commissioner,
Office of the Deputy Commissioner,
Madurai Corporation,
Anna Maligai, Madurai District.

4.The Assistant Commissioner,
Office of the Assistant Commissioner,
Zone-4, Madurai Corporation,
Madurai.

... Respondents 2 to 4 / Respondents 1 to 3 in
W.A.(MD)No.1446 of 2021

5.The Executive Engineer,
Office of the Executive Engineer,
TANGEDCO, Arasaradi West,
Madurai.

6.The Assistant Executive Engineer,
Office of the Assistant Executive Engineer,
TANGEDCO, Pasumalai,
Madurai.

7.The Assistant Engineer,
Office of the Generation and Distribution,
TANGEDCO, TVS Nagar,
Madurai.

... Respondents 2 to 4 /
Respondents 1 to 3 in W.A.(MD)No.1447 of 2021

P.Sivanammal (Died)



COMMON PRAYER: Writ Appeals filed under Clause 15 of the Letters Patent, praying to set aside the orders dated 05.01.2021 in W.P. (MD) Nos.14993 and 15966 of 2015 on the file of this Court.

Prayer in WP(MD). 14993/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus or any other Writ or direction in the nature or Writ, forbearing the Respondent No. 1 to 3 from passing any order on the application of the Respondent No. 4 for modification of entries in the property tax assessment records pertaining to the petitioners property in Survey No. 472/1, Madakulam Village, Pykara, Madurai District without hearing the Petitioner.

Prayer in WP(MD). 15966/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in in Ka.No. UMIPO/PA/TVS NAGAR/KO.KATTU/A.NO.429/2015 dated 05.08.2015 on the file of respondent no. 2 and quash the same as illegal and consequently direct the respondent No. 3 to provide electricity connection to the petitioners properties in survey no. 472/1 to an extent of 2200 Sqft situated at No. 42, E.B. Main Road, Muthuramalingapuram, Pykara, Madurai District within the time frame stipulated by this Honble Court.

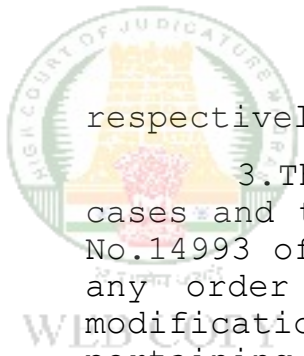
For Appellant	: Mr.M.Kannan
(in both appeals)	
For 1st Respondent	: Mr.T.Lajapathi Roy
(in both appeals)	
For Respondents 2 to 4	: Mrs.S.Srimathy
(in both appeals)	Standing Counsel

COMMON JUDGMENT

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

We have heard Mr.M.Kannan, learned Counsel appearing for the Appellant, Mr.T.Lajapathi Roy, learned Counsel appearing for the first respondent and Mrs.S.Srimathy, learned Standing Counsel appearing for the respondents 2 to 4.

2.These writ appeals have been filed challenging the orders passed in W.P. (MD) Nos.14993 and 15966 of 2015, dated 05.01.2021,
<https://hcservices.ecourts.gov.in/hcservices/>



respectively.

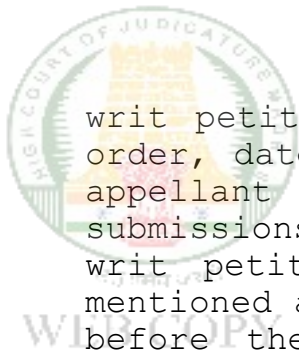
3.The first respondent is the writ petitioner in both the cases and the relief sought for by the first respondent in W.P.(MD) No.14993 of 2015 is to forbear the Official respondents from passing any order on the application given by the writ appellant for modification of the entries in the property tax assessment pertaining to the property in Survey No.472/1 at Madakulam Village, Pykara, Madurai District, without hearing the first respondent.

4.The prayer sought for in W.P(MD) No.15966 of 2015 is for issuance of a Writ of Certiorarified Mandamus to quash the order passed by the fourth respondent and to provide electricity service connection to the first respondent / writ petitioner in respect of an extent of 2200 Sq. feet in Door No.42, E.B. Main Road, Muthuramalingapuram,Pykara, Madurai District.

5.The learned Writ Court had disposed of both the writ petitions by noting the stand taken by the Madurai Corporation and the Electricity Board. We find that there is no much discussion about on what basis the first respondent had approached the writ Court and sought for the prayers as mentioned above. Furthermore, there is no discussion as to what is the contention of the writ appellant, who was the contesting respondent in the writ petitions. Insofar as the WP(MD) No.14993 of 2015 is concerned, the learned Writ Court merely recorded the stand taken by the Madurai Corporation in its counter affidavit. When civil rights are involved, the writ Court should be very slow in interfering with such matters. However, if it finds that there is any arbitrary exercise of power by the authorities or the authorities are acting wholly without jurisdiction, then the Court would be justified in interfering in such matters. We find no such observation in both the impugned orders passed in the writ petitions.

6.That apart, the learned Writ Court appears to have not been appraised of the fact that the first respondent/writ petitioner has filed a suit in O.S.No.1242 of 2015 which is pending on the file of the I Additional Subordinate Court, Madurai and his wife has filed a suit in O.S.No.613 of 2016 pending before the Principal District Munsif Court, Madurai, both concerning the same property, in which, the appellant is the defendant. The appellant has filed a suit in O.S.No.1101 of 2019 which is also pending before the I Additional Subordinate Court, Madurai and tagged along with O.S.No.1242 of 2015, for joint trial.

7. In fact, these aspects have been filed in the form of an affidavit in support of the impleading petition filed by the appellant in the writ petitions. The learned Writ Court was satisfied that the appellant is a proper and necessary party to the



writ petitions and therefore, allowed the impleading petitions, by order, dated 05.01.2021 and without affording an opportunity to the appellant to file his counter affidavit nor considering any of the submissions made by the appellant in the impleading petition, the writ petitions were disposed of by order, dated 05.01.2021, as mentioned above, which is a very brief order. Since the parties are before the Civil Court, no useful purpose would be served, by directing the authorities to consider the application for Electricity Service connection and no direction as sought for by the first respondent to the Corporation of Chennai can be granted.

8. That apart, the appellants alleges that fraud has been played by inserting certain papers in the document which is purported to be a sale deed executed by a Court, pursuant to the Court auction. All these issues should be agitated by the parties before the civil Court and the impugned directions issued in the writ petitions have to be necessarily set aside.

9. Accordingly, these Writ Appeals are allowed and the order and directions issued in the writ petitions are set aside and consequently, the writ petitions are dismissed. It is open to the appellant as well as to the first respondent to agitate all their rights in the pending civil litigation. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

RM

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Commissioner,
Office of the Commissioner,
Madurai Corporation,
Anna Nagar, Madurai District.

+2 CC to M/s.M.KANNAN, Advocate (SR-23972,SR-23971[F] dated 27/07/2021)

W.A.[MD]Nos.1446 and 1447 of 2021

26.07.2021

_RD(4.08.2021) 4P 4C