



WEB COPY

W.A.[MD]No.892 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A.[MD]No.892 of 2021

and C.M.P.[MD]No.4040 of 2021

T.Kayalvizhi : Appellant/Writ Petitioner

Vs.

- 1.The District Collector,
Dindigul District, Dindigul.
- 2.The Revenue Divisional Officer/
Sub Divisional Magistrate,
Dindigul, Dindigul District.
- 3.The Superintendent of Police,
Dindigul District, Dindigul.
- 4.The Thasildar,
Nilakottai Taluk,
Dindigul District.
- 5.The Inspector of Police,
Batlagundu Police Station,
Dindigul District.
- 6.N.Vijayakumar
- 7.S.Naveen Nagendra Sasikumar
- 8.S.Senthilkumari
- 9.J.Nithya
- 10.M.Ganesan
- 11.G.Sakthivel
- 12.S.Santhini
- 13.S.Jeya

: Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent, praying to set aside the order dated 31.03.2021 in W.P.(MD)No.31 of 2021 on the file of this Court and allow the writ appeal.

Prayer in WP(MD). 31/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court for issuance of Writ of Certiorari calling for the records relating to the impugned order passed by the 2nd respondent Revenue Divisional Officer / Sub - Divisional Magistrate in Na.Ka.1387/2020/A1 dated 17/12/2020, Quash the same.

<https://hcservices.ecourts.gov.in/hcservices/>



For Appellant

: Mr.Isaac Mohanlal
Senior Counsel
for M/s.Isaac Chambers

For Respondents 1 to 5

: Mr.K.P.Krishnadass
Special Government Pleader

For Respondent No.6

: Mr.G.Prabhu Rajadurai

For Respondents 7 to 13

: Mr.R.Singaravelan
Senior Counsel for
Mr.D.Selvanayagam

JUDGMENT

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

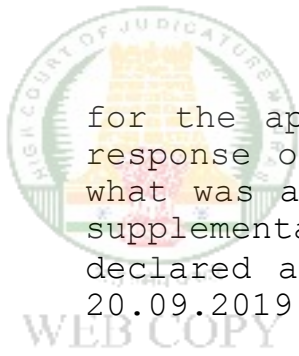
With the consent on either side, this Writ Appeal is taken up for final disposal.

2.Heard Mr.Isaac Mohanlal, learned Senior Counsel appearing for the appellant, Mr.K.P.Krishnadass, learned Special Government Pleader appearing for the first to fifth respondents, Mr.G.Prabhu Rajadurai, learned Counsel appearing for the sixth respondent and Mr.R.Singaravelan, learned Senior Counsel appearing for the respondents 7 to 13.

3.This appeal is directed against the order passed in W.P. (MD)No.31 of 2021 dated 31.03.2021. In the said writ petition, the appellant challenged the proceedings of the Revenue Divisional Officer / Sub-Divisional Magistrate, initiating proceedings under Section 145 Cr.P.C. The learned Writ Court has dismissed the writ petition on the ground of maintainability, holding that the remedy available to the appellant is to invoke Section 397 Cr.P.C., and file a Criminal Revision Case and writ petition is not maintainable.

4.Learned Senior Counsel for the appellant would submit that there have been several instances where this Court has entertained writ petitions challenging the orders passed under Section 145 Cr.P.C. as well as 107 Cr.P.C. and the distinction being that the order is vitiated on account of lack of jurisdiction and not merely error of jurisdiction. In that regard, the learned Senior Counsel has referred to several decisions of this Court.

5.The learned Senior Counsel appearing for the private respondents as well as the learned Special Government Pleader would submit that the appellant had already filed CrI.R.C.No.SR9599 of 2021 and sought for dispensing the production of the original order passed by the Revenue Divisional Officer, which was ordered by the Court on 08.04.2021 and the appellant cannot seek parallel remedies. Further, in response to the submission made by the learned Senior Counsel who had placed reliance on a document styled as "வார்த்தமான உடன்படிக்கை" dated 20.09.2019, wherein the learned Senior Counsel



for the appellant submitted that Rs.30 Lakhs have been paid. The response of the learned Senior Counsel for the respondents is that what was agreed to in the said document was not adhered to and the supplementary trust deed dated 16.12.2015, cannot be over-done or declared as nullity by an unregistered "வர்த்தமான உடன்படிக்கை" dated 20.09.2019.

6. In our considered view, all submissions can be canvassed by the appellant in the pending criminal revision case, which is yet to be numbered. Therefore, we are of the considered view that the appellant having chosen to file a criminal revision case, should pursue the matter. However, the legal issue which has arisen in the matter is left open to be decided as and when the need arises.

7. Before we part, we make an observation that the parties should consider that the property or the asset over which the dispute arises is an educational institution and stated to be a public school. If this aspect is borne in mind, we are confident that some workable solution can be arrived at between the parties till the adjudication is completed in the civil proceedings initiated among themselves.

8. The learned Senior Counsel for the appellant submitted that the interest of the institution may be safeguarded till the criminal revision petition is listed for hearing, where the appellant will seek for appropriate interim orders.

9. Considering the said submission, the *status quo*, by all the parties, which is prevailing as on date shall be maintained, without precipitating any issues and the Registry is directed to number the criminal revision case and list it before the appropriate bench.

10. With the above observation, the Writ Appeal is closed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

MR

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 District Collector,
Dindigul District,
Dindigul.
- 2.The Revenue Divisional Officer/
Sub Divisional Magistrate,
Dindigul, Dindigul District.
- 3.The Superintendent of Police,
Dindigul District,
Dindigul.
- 4.The Thasildar,
Nilakottai Taluk,
Dindigul District.
- 5.The Inspector of Police,
Batlagundu Police Station,
Dindigul District.

Copy to
The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.D.SELVANAYAGAM, Advocate SR-17321[F] dated 23/04/2021
+1 CC to M/s.ISAAC CHAMBERS, Advocate SR-17256[F] dated 23/04/2021
+1 CC to M/s.SPL Govt. Pleader SR-17368[F] dated 23/04/2021

JUDGMENT MADE IN
W.A. [MD]No.892 of 2021
22.04.2021

ES (CO)
TR(18.06.2021) 4P 10C