



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.4.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI,
CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.825 of 2022

R.Dhanapal Raj

..Appellant

Vs.

1. Ministry of Finance
Department of Revenue
Church Road, Hutments
New Delhi.
2. Union of India
Rep. by its Secretary
Ministry of Law and Justice
New Delhi.
3. The Deputy Director
Directorate of Enforcement
3rd Floor, III Block
No.26, Haddows Road
Shastri Bhavan, Chennai - 600 006.

..Respondents

Prayer: APPEAL under Clause 15 of the Letters Patent against the order dated 27.1.2022 in W.P.No.5092 of 2015.

Prayer in W.P.No.5092 of 2015: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the 3rd respondent to pay the fees arrears of Rs.9,35,019/- for conducting case on behalf of the respondents.

For Appellant

: Mr.K.A.Ravindran



JUDGMENT
(Judgment was delivered by
the Hon'ble Chief Justice)

We have heard the learned counsel appearing for the appellant.

2. The writ appeal has been filed challenging the order dated 27.1.2022 passed in W.P.No.5092 of 2015.

3. The writ petition was preferred by the appellant on the ground that the fee towards the bills raised by the appellant was not accepted and even after discharging of work on behalf of the respondents, the appellant was not paid the amount of bills raised by him. Having no other alternative, the appellant filed the writ petition.

4. The writ petition was dismissed by the learned Single Judge by the impugned order precisely on the ground that it involves disputed questions of fact because there was a serious dispute on the bills raised by the appellant for payment and this Court, while exercising jurisdiction under Article 226 of The Constitution, could not go into the disputed questions of fact.

5. The learned counsel appearing for the appellant submits that if there was a dispute about the bills raised by the appellant, it was not clarified as to what was the objection to the bills raised. It was otherwise as per the terms of appointment as a lawyer. The dispute raised by way of filing counter was only for the sake of it and the learned Single Judge should not have carried himself away by the counter. Rather, considering the claim made by the appellant, the writ petition ought to have been allowed.

6. We have carefully considered the submissions made by the learned counsel for the appellant and perused the records.

7. The order under challenge has made a reference to the claim of the appellant towards professional bills. In the counter, it has been stated that a dispute was raised about the claim of the bills towards effective or non effective hearing of the case for payment of fee. The appellant claimed fee showing some dates to be of effective hearing dates while, according to the respondents, it was a case of non effective hearing. Therefore, the dispute as to effective or non effective hearing dates could not have been addressed by the learned Single Judge while exercising the jurisdiction under Article 226 of The Constitution of India. The appellant was also given liberty to approach the competent Court for adjudication of the issues.



8. We do not find any error in the order passed by the learned Single Judge. The jurisdiction under Article 226 of The Constitution of India cannot be used when there exists disputed question of facts, as finding of fact cannot be rendered by the Writ Court. It is not that the respondents did not justify the denial of fee. In the counter, it has been clearly adverted to and rightly accepted by the learned Single Judge. Otherwise, the respondents had not denied the claim for the sake of it, but had given reasons. Whether it was justified or not is a question of fact to be determined. The learned Single Judge rightly dismissed the writ petition by granting liberty to the appellant.

9. Accordingly, the writ appeal is dismissed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

RS

To:

- 1.Ministry of Finance,
Department of Revenue,
Church Road, Hutments,
New Delhi.
- 2.The Secretary
Union of India,
Ministry of Law and Justice,
New Delhi.
- 3.The Deputy Director,
Directorate of Enforcement
3rd Floor, III Block, No.26, Haddows Road
Shastri Bhavan, Chennai - 600 006.

+1cc to Mr.K.A.Ravindran, Advocate SR. No.24432

W.A.No.825 of 2022

SPD (CO)
PR (13/04/2022)