



W.P.No.25007 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.25007 of 2022

U.Charles

.... Petitioner

-Vs-

1.The Special Tahsildar (Garnishee)
Aadhi Dravidar Welfare Special Tahsildar
Special Tahsildar Office, Nannilam
Thiruvavarur District.

2.Selvaraj

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the first respondent not to disburse Leave Salary including Arrears of Leave Salary to be paid to the 2nd respondent till the issue get finality by the Court of Law based on the representation dated 01.09.2022.

For Petitioner : Mr.R.Thiagarajan

For Respondents : Mr.C.Kathiravan
Special Government Pleader

ORDER

The prayer sought for herein is for a Writ of Mandamus directing the first respondent not to disburse Leave Salary including Arrears of Leave Salary to be paid to the 2nd respondent till the issue get finality by the Court of Law based



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on the representation dated 01.09.2022.

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2. The petitioner claimed that, the second respondent who has been working as a Headmaster of Adi Dravida Primary School at Vishnupuram had been advanced some loan against promissory note and the said loan since has not been allegedly repaid by the second respondent, the petitioner claimed to have approached the Civil Court and filed O.S.No.231 of 2015 on the file of the Principal Sub Judge, Kumbakonam, where he was able to get an exparte decree dated 25.10.2019 to pay a sum of Rs.6,58,000/-

3. After getting the exparte decree it was claimed by the petitioner that the second respondent asked the petitioner not to file any Execution Petition and he would repay the amount. Accordingly, he has not filed any execution petition. However, the second respondent, according to the petitioner did not keep his words and did not pay the amount. Therefore, since the second respondent was at the verge of superannuation, the petitioner had no other option except to approach the Civil Court once again and he filed O.S.No.496 of 2019 on the file of the Principal District Munsif, Kumbakonam seeking permanent injunction against the first respondent from disbursing the leave salary and arrears of leave salary to the tune of Rs.7,50,000/-. It is the further claim of the petitioner that, when the said suit was pending the first respondent seems to



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have withheld the gratuity amount payable to the second respondent.

Challenging the same, the second respondent filed W.P.No.22241 of 2021 and since the said suit filed by the petitioner was pending, this Court directed the second respondent in the said writ petition to file appropriate application in the concerned Court and the Court also directed to dispose of the suit within a period of six months.

4. Thereafter, the second respondent filed an application in Order VII Rule 11 of CPC to reject the plaint filed by the petitioner in O.S.No.496 of 2019 on the basis of pecuniary jurisdiction and the I Additional District Munsif Court, Kumbakonam allowed the application. Thereby, the plaint filed by the petitioner in O.S.No.496 of 2019 was rejected by an order dated 29.08.2022.

5. Only in that circumstance, the petitioner had given a representation on 01.09.2022 to the first respondent not to disburse the retirement benefits to the second respondent and in order to consider the said representation and to prevent the first respondent from paying the retirement benefits payable to the second respondent, this writ petition has been moved.

6. Reiterating the aforesaid, the learned counsel for the petitioner would seek the indulgence of this Court.



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7. I am afraid to entertain these kind of writ petitions because, it is purely a private dispute between the petitioner and the second respondent, where there has been an alleged money transaction and based on which claim, the petitioner obtained a Civil Court decree of course on exparte basis and pursuant to which, if at all the petitioner is to recover the money paid by him to the second respondent, he can approach the Civil Court by filing Execution Petitions, that is the only way out under the C.P.C. Without resorting to the same, since the petitioner has already approached the Civil Court by filing another Civil Suit seeking restraint order against the first respondent, which has also ended against the petitioner because, the Order VII Rule 11 C.P.C., application filed by the second respondent since has been allowed, that suit seeking restraint order also now has been rejected by the Civil Court concerned, at this juncture the petitioner has approached this Court by filing the present writ petition after giving a representation to that effect on 01.09.2022.

8. This is not first of all a service dispute between the parties inter se and therefore this Court cannot entertain this writ petition. Moreover, if this kind of litigation or lis are entertained by this Court in the extraordinary jurisdiction under Article 226 of the Constitution of India, that would create unnecessary flood gate and for such kind of remedy the litigants like the petitioner cannot



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pursue writ petitions before this Court. It is purely a civil dispute which can be resolved only by the competent civil Court and the same forum had already been approached by the petitioner by filing suit after suit.

9. Therefore, this Court has no hesitation to hold that the prayer sought for in this writ petition cannot be entertained and hence it is liable to be rejected. The writ petition is accordingly dismissed in limine. No costs.

16.09.2022

Index : Yes/No
Internet : Yes/No
KST

To

The Special Tahsildar (Garnishee)
Aadhi Dravidar Welfare Special Tahsildar
Special Tahsildar Office, Nannilam
Thiruvarur District.



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R. SURESH KUMAR, J.

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