



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :26.04.2022

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

REV.APLW(MD)No.19 of 2022

and

W.M.P. (MD)No.3993 of 2022

1.J.Surya
2.S.Joseph Prabaher
3.J.Violetta

...Review Applicants/3rd Parties

Vs.

1.Thillaipandi

2.The Superintendent of Police,
O/o.The Superintendent of Police
Tirunelveli District.

3.The Sub-Collector,
O/o.The Sub-Collector,
Cheranmahadevi,
Tirunelveli District.

4.The Tahsildar,
Taluk Office,
Thisayanvilai,
Tirunelveli District.

5.The Inspector of Police,
Uvari Police Station,
Uvari, Tirunelveli District.

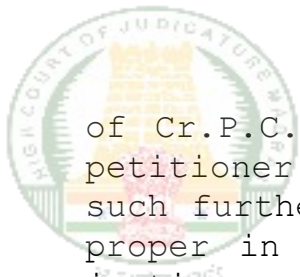
...R-2 to R-5/Respondents

PRAYER: Review Application under Order 47 Rule 1 & 2, Section 114 of Civil Procedure Code read with Article 226 of Constitution of India, to set aside the order passed in W.P.(MD)No.3202 of 2022 on 18.02.2022 by allowing the above review application.

Prayer in WP(MD). 3202/ 2022 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, to direct the 2nd respondent to consider the complaint dated 27.01.2022 given by the petitioner to conduct enquiry u/s.147

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of Cr.P.C. in order to provide water to the coconut trees of the petitioner within the time stipulated by this Honble Court and pass such further or other orders as this Honble Court may deems fit and proper in the facts and circumstance of the case and thus render justice.

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For Petitioners :M/s.H.Arumugam
For R-1 :M/s.Rajiv Rutus
For R-2 to 5 :Mr.R.Manikandan,
Government Advocate (crl. Side)

ORDER

This Review Application has been filed to review the order in W.P.(MD)No.3202 of 2022, dated 18.02.2022.

2.Heard on either side.

3.The review petitioners are third parties in the writ petition have filed this review application to review the order passed in W.P.(MD)No.3202 of 2022.

4. The 1st respondent herein has filed the writ petition under Article 226 of Constitution of India to direct the 2nd respondent to consider the complaint dated 27.01.2022 given by him and to conduct enquiry under Section 147 of Cr.P.C..

5.With regard to the said dispute, a suit is pending between these two parties in O.S.No.51 of 2021 for bare injunction, on the file of the learned District Munsif, Radhapuram.

6.The 1st respondent/writ petitioner had filed writ with counter claim and claimed rights one half rights in the well and also for permanent injunction. He has also filed a petition in I.A.No.3 of 2021 for temporary injunction to not to disturb for doing cultivation and also earning the coconut trees. Without disclosing the counter claim and I.A.No.3 of 2021 this writ petitioner has filed writ. Since the suit is pending between the parties and the rights of the parties to be decided in the suit only.

7.It is purely a civil rights. Only after deciding the rights of the parties the writ petitioner can derive water from the well.

8.The paragraph Nos.34 & 36 of the Judgment reported in **(2008) 12 Supreme Court Cases 481, K.D.Sharma Vs. Steel Authority of India Limited and Others**, are extracted hereunder:

"34. The jurisdiction of the Supreme Court under Article 32 and all the High Court under



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Article 226 of the Constitution is extraordinary, equitable and discretionary. Prerogative writs mentioned therein are issued for doing substantial justice. It is therefore, of utmost necessity that the petitioner approaching the writ court must come with clean hands, put forward all the facts before the court without concealing or suppressing anything and seek an appropriate relief. If there is no candid disclosure of relevant and material facts before the Court without concealing or suppressing anything and an appropriate relief. If there is no candid disclosure of relevant material facts or the petitioner is guilty of misleading the court, his petition may be dismissed at the threshold without considering the merits of the claim.

36. A prerogative remedy is not a matter of course. While exercising extraordinary power a writ court would certainly bear in mind the conduct of the party who invokes the jurisdiction of the court. If the applicant makes a false statement or suppresses material fact or attempts to mislead the Court, the Court may dismiss the action on that ground alone and may refuse to enter into the merits of the case by stating "We will not listen to your application because of what you have done". The rule has been evolved in the large public interest to deter unscrupulous litigants from abusing the process of Court by deceiving it".

9. In view of the foregoing reasons, this Review Application is allowed. The learned District Munsif, Radhapuram is directed to dispose the suit in O.S.No.51 of 2021, within a period of three months from the date of receipt of copy of the order. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

ksa

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To

- 1.The District Munsif Court,
Radhapuram.
- 2.The Superintendent of Police,
O/o.The Superintendent of Police
Tirunelveli District.
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Tirunelveli District.
- 5.The Inspector of Police,
Uvari Police Station,
Uvari, Tirunelveli District.

+1 CC to Mr.H.ARUMUGAM, Advocate SR.No. 21826

Order made in
REV.APLW(MD) No.19 of 2022
26.04.2022

KG (CO)
TR(08.06.2022) 4P 7C