



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.16043 of 2020

and

W.M.P. (MD) No.13443 of 2020

WEB COPY

M.C.Sheela Evanjalín

... Petitioner

vs.

1.The Commissioner of Municipal Administration
Ezhilagam, Chennai-600 005

2.The Commissioner
Kuzhithurai Municipality
Kuzhithurai, Kanniyakumari District

3.The Assistant Director of Local Fund Audit
Behind District Collector Office Campus
Nagercoil, Kanniyakumari District ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorari calling for the records relating to the order Na.Ka.No.3783/2020/C1, dated 08.09.2020 and the order Na.Ka.No.3783/2007/C1, dated 15.10.2020 passed by the 2nd respondent in pursuance of the audit objection raised by the 3rd respondent in Para No.33 of the Audit Report of Kuzhithurai Municipality for the year 2018-2019 and quash the same with exemplary cost.

For Petitioner : Mr.T.Thirumurthy

For Respondents : Mr.A.K.Manikkam

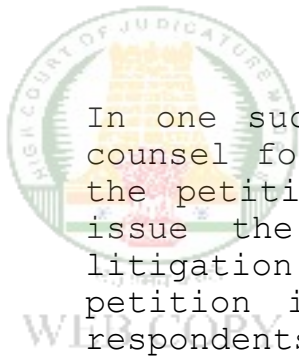
Special Government Pleader for R1 & R3

No appearance for R2

O R D E R

The demand notice, dated 08.09.2020, issued by the second respondent directing the petitioner to pay a sum of Rs.2,02,833/- within seven days towards litigation charges sustained by the respondents and the recovery order, dated 15.10.2020, passed by the third respondent, proposing to recover a sum of Rs.6,761/- on thirty installments from the salary of the petitioner, are under challenge in this writ petition.

2. The petitioner admittedly filed several writ petitions and other litigations against the second respondent - Municipality.



In one such writ petition, cost was also awarded and the learned counsel for the petitioner stated that the cost amount was paid by the petitioner. However, the respondents have no jurisdiction to issue the impugned orders for the purpose of recovering the litigation charges sustained by the respondents. Instituting a writ petition is the basic right of the citizen and if at all the respondents were unnecessarily dragged, it is for them to sue the petitioner in the manner known to law, but they cannot issue orders independently to recover the amount, which is unsustainable.

3. The learned Special Government Pleader appearing for the respondents 1 and 3 objected the above contentions by stating that the petitioner is in the habit of filing several vexatious litigations and in one such litigation, cost was imposed by the Honourable Supreme Court and the petitioner paid the cost amount also. In view of the fact that the petitioner filed several vexatious litigations, the respondents issued the impugned orders to recover the litigation charges. Thus, there is no infirmity in the impugned orders.

4. This Court is of the considered opinion that filing a case is the basic right of the citizen. If at all vexatious litigations are filed, the Courts have to take appropriate action and impose cost. In the present case, the Honourable Supreme Court has already imposed cost and the petitioner paid the cost amount. If any other frivolous litigations are filed against the respondents by the petitioner and they suffered financial loss on account of filing such vexatious and frivolous litigations, they have to sue the petitioner for recovery of damages or for compensation. But, the respondents cannot issue any recovery orders to the opponent independently. Such a procedure is without jurisdiction and not contemplated under the statute. This being the factum, the impugned orders passed by the respondents 2 and 3 suffer from infirmity.

5. Accordingly, the writ petition is allowed and the demand notice, dated 08.09.2020, issued by the second respondent and the consequential recovery order, dated 15.10.2020, passed by the third respondent, are quashed. If at all any amount has already been recovered from the petitioner pursuant to the impugned orders, the said amount has to be refunded to him within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

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/ /2022

Sub Assistant Registrar(CS)



To:

1.The Commissioner of Municipal Administration,
Ezhilagam, Chennai-600 005.

2.The Assistant Director of Local Fund Audit,
Behind District Collector Office Campus,
Nagercoil, Kanniyakumari District.

3.The Commissioner
Kuzhithurai Municipality
Kuzhithurai, Kanniyakumari District

+1 CC to M/s.A. THIRUMURTHY, Advocate (SR-17245[F] dated 07/04/2022
)

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RD(20.04.2022) 3P 5C