WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 21.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

W.P.(MD)No.26195 of 2022
and
W.M.P(MD).Nos.20377 and 20379 of 2022

M.Lakshmanan ... Petitioner

Vs

1.The District Collector,
Collectorate Campus,
Thoothukudi, Thoothukudi District.

2.The District Manager,
The Tamil Nadu State Marketing Corporation (TASMAC),
Thoothukudi, Thoothukudi District.

3.The Tahsildar,
O/o., The Thasildar,
Srivaikundam Taluk,
Thoothukudi District. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for records relating to the impugned order of recovery passed by the first respondent in his proceedings in ந.க.(ஜ1)/21919/2021 dated 22.10.2021 insofar as petitioner in concerned and the consequential impugned recovery notice issued by the third respondent in his proceedings in படிவம் எண்.4 dated 26.09.2022 and the consequential attachment notice issued by the third respondent in his proceedings in ந.க.டி1/6723/2021 dated 03.11.2022 and quash the same as illegal.

https://www.mhc.tn.gov.in/judis

WEB COPY

For Petitioner : Mr.M.Ajmalkhan
Senior Counsel for
M/s.Ajmal Associates

For Respondents : Mr.A.K.Manikkam
Special Government Pleader (for R1 & R3)
Mr.S.Sivanesan
Standing Counsel (for R2)

ORDER

Heard the learned Senior Counsel appearing for the petitioner, learned Special Government Pleader appearing for the respondents 1 and 3 and learned Standing Counsel appearing for the second respondent.

2.The writ petitioner was employed as Supervisor in TASMAC Shop.No.9991 in Adaikalapuram, Thiruchendur Taluk. He was implicated in Crime No.18 of 2022 registered on the file of the District Crime Branch Police Station, Thoothukudi for the offences under Sections 406, 408, 409, 420, 477 A, 381, 120-B and 34 of the Indian Penal Code.

3.The learned Senior Counsel appearing for the petitioner would state that even without passing a formal order of suspension, he is being prevented from reporting for duty. He has been issued with charge memo

https://www.mhc.tn.gov.in/judis

WEB COPY

and enquiry is presently going on. It is not in dispute that no final order has been passed.

4.The stand of the TASMAC is that the petitioner and others have misappropriated stock to the tune of Rs.1,57,95,810/-. By the impugned proceedings, steps to recover the said amount by proceeding against the writ petitioner's property under the Revenue Recovery Act, have been ordered.

5.The learned Senior Counsel is absolutely justified in his contention that such an order could not have been passed without complying with appropriate procedures. The impugned proceedings are vulnerable on more than one count. Firstly, they have been passed in utter violation of the principles of natural justice. Secondly, the departmental proceedings have not attained finality. If an order for recovery of the amount in question is imposed as punishment, then subject to judicial review, it is possible that they could be enforced by invoking the provisions of the Revenue Recovery Act.

6.For these reasons, the impugned orders are set aside. The Writ Petition is allowed. Liberty is given to the respondents to take recourse

https://www.mhc.tn.gov.in/judis

WEB COPY

to due process of law. No costs. Consequently, connected Miscellaneous Petitions are closed.

21.11.2022

Index : Yes/No
Internet : Yes/No
Rmk

To

1.The District Collector,
Collectorate Campus,
Thoothukudi, Thoothukudi District.

2.The Tahsildar,
O/o., The Thasildar,
Srivaikundam Taluk,
Thoothukudi District.

WEB COPY

G.R.SWAMINATHAN, J.,

Rmk

W.P.(MD)No.26195 of 2022
and
W.M.P(MD).Nos.20377 and 20379 of 2022

21.11.2022

https://www.mhc.tn.gov.in/judis