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W.P.(MD)NO.28082 OF 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.12.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.28082 of 2022 and
W.M.P.(MD)Nos.22170 & 22172 of 2022

S.Balasubramanian

... Petitioner

Vs.

1. State rep. By,
The District Collector,
Collectorate Campus, Dindigul.
2. State rep. by
The District Revenue Officer,
O/o.The District Revenue Officer,
Dindigul, Dindigul District.
3. State rep. by
The Revenue Divisional Officer,
O/o.The Revenue Divisional Officer,
Palani, Dindigul District.
4. State rep. by
The Tashildhar,
O/o.Tashildhar,
Guziliamparai Taluk, Dindigul District.
5. State rep. by
The Village Administrative Officer,
Karikali, Vendasandur Taluk,
Dindigul District.

6. K.Suresh

... Respondents



Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the 1st and 2nd respondents from proceeding the appeal against the order passed by the 3rd respondent in Na.Ka. No.4327/02/Aa1 dated 15.07.2006 and defer the enquiry till the disposal of the A.S.No.30 of 2022 on the file of the learned Sub Court, Veda sandur, against the judgment and decree in O.S.No.230/2006 on the file of the Learned District Munsif Court, Veda sandur.

For Petitioner : Mr.R.Senthilkumar

For R-1 to R-5 : Mr.A.K.Manikkam,
Special Government Pleader.

* * *

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Special Government Pleader appearing for respondents 1 to 5.

2. Considering the nature of relief to be granted, issuance of notice to the sixth respondent is dispensed with.



3. The petitioner wants this Court to forbear respondents 1 and 2 from proceeding with the petition mentioned enquiry. The ground urged by the learned counsel appearing for the writ petitioner is that A.S.No.30 of 2022 is pending on the file of the Sub Court, Veda sandur in respect of the subject matter.

4. It is true that the petitioner filed O.S.No.230 of 2006 on the file of the District Munsif Court, Veda sandur, seeking relief of declaration and permanent injunction. The sixth respondent herein is figuring as fourth defendant in the suit. The suit was however dismissed on 12.10.2022. Aggrieved by the same, the petitioner has filed A.S.No.30 of 2022 before the Sub Court, Vada sandur. Normally when the jurisdictional civil Court is seized of the matter, the revenue authority will be restrained from conducting enquiry in respect of the very same subject matter. But this cannot be applied beyond a point. The suit was filed by the petitioner way back in the year 2006. After contest, the suit came to be dismissed sixteen long years later. It is true that the petitioner filed first appeal.



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5. I can take judicial notice of the fact that civil proceedings can go on interminably. The losing party cannot come to the writ Court to restrain the revenue authority from conducting enquiry in the meanwhile. If at all, the party who filed the appeal or revision, must move the appellate or revisional Court for relief.

6. I permit the petitioner to file I.A. before the appellate Court in A.S.No.30 of 2022 and ask for relief that has now been sought. If the said I.A. is filed within one week from the date of receipt of a copy of this order, the same will be numbered immediately. The petitioner can also implead the District Revenue Officer, Dindigul even if he is not a party to the appeal proceedings. The appellate Court shall dispose of the same on merits and in accordance with law after issuing notice to the private party herein within a period of eight weeks thereafter.

6. Respondents 1 and 2 are directed to defer the petition mentioned enquiry proceedings till the disposal of I.A.



by the appellate Court. This writ petition stands disposed of.

No costs. Consequently, connected miscellaneous petitions are closed.

14.12.2022

Index : Yes / No

Internet : Yes/ No

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To:

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Dindigul, Dindigul District.
3. The Revenue Divisional Officer,
O/o.The Revenue Divisional Officer,
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4. The Tashildhar,
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G.R.SWAMINATHAN,J.

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