



W.P.(MD)No.28477 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.12.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.28477 of 2022

and

W.M.P.(MD)Nos. 22484 & 22486 of 2022

Pandeeswaran

... Petitioner

Vs.

1. The District Collector,
Madurai District.
2. The Joint Director,
Kallar Reclamation,
Madurai – 625 020.
3. The Revenue Divisional Officer,
Usilampatti,
Madurai District.
4. The Tahsildar,
Usilampatti Taluk,
Madurai District.
5. The Tahsildar,
Peraiyur Taluk,
Madurai District.



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WEB COPY 6. A.Palaniammal

7. Chinnathai

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, to call for the records relating to the impugned order passed by the 2nd respondent by his proceedings, dated 30.11.2021 in Roc.No.H10/71269/1999 and consequential recovery order, dated 01.11.2022 in Roc.No.H10/71269/1999 and quash the same as illegal and arbitrary.

For Petitioner : Mr.V.Sasikumar

For Respondents : Mr.C.Satheesh - for R1 to R5
Government Advocate

ORDER

This writ petition has been filed to quash the impugned order passed by the 2nd respondent by his proceedings, dated 30.11.2021 in Roc.No.H10/71269/1999 and consequential recovery order, dated 01.11.2022 in Roc.No.H10/71269/1999.



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2. The learned counsel for the petitioner submitted that one Indirani working as Sanitary Worker in Thirumangalam Government Kallar Girls' Hostel passed away on 08.11.1999 and during her life time, she executed a registered 'Will' on 02.02.1999 in favour of the petitioner and subsequently, challenging the said 'Will', the respondents 6 and 7 filed a suit in O.S.No.44 of 2000 on the file of the District Munsif - cum - Judicial Magistrate Court, Usilampatti, and the said suit was dismissed on 22.12.2003. Thereafter, again, the very same respondents 6 and 7 filed another suit in O.S.No.37 of 2018 to declare them as the legal heir of Indirani and the said suit was filed without impleading the petitioner as a party to the suit and obtained an exparte decree as against the Government officials. Based on the exparte decree, the present impugned suspension order and recovery order was passed. Challenging the same, the present writ petition is filed.

3. The learned counsel for the petitioner further submitted that in the earlier suit, though the petitioner is a party and the petitioner's 'Will' was established before the trial Court and after establishment, the trial Court



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declared the 'Will' as a genuine one and based on the 'Will', the petitioner obtained the retirement benefits of Indirani. However, subsequently, the respondents 6 and 7 without impleading the petitioner as a party and obtained a decree as they are the legal heirs. However, all those things was not considered by the respondents and they mechanically passed the impugned suspension order under Rule 17 (e) of Tamil Nadu Civil Services (Discipline and Appeal) Rules and passed a recovery order. However, learned counsel for the petitioner further submitted that this Court may grant stay, in respect of recovery and however, issued a direction to the respondents to conclude the disciplinary proceedings within a period of six months and after providing opportunity to the respondents 6 and 7.

4. Considering the limited request made by the learned counsel for the petitioner, since no adverse order is passed as against the respondents 6 and 7, notice to the respondents 6 and 7 is dispensed with.

5. Earlier the respondents 6 and 7 filed a suit against the petitioner for challenging the Will obtained by the petitioner from the



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deceased Indirani and the said suit was dismissed. Based on which, he obtained a legal heir certificate and on the strength of the legal heir certificate, he received the retirement terminal benefits of Indirani. However, subsequently, without impleading the petitioner, the respondents 6 and 7 filed a suit and obtained a decree. Based on the decree, the present recovery order was passed.

6. Considering the facts and circumstances of this case, this Court, without expressing any opinion on the merits of the case and the same without being influenced in the mind of the enquiry officer and the enquiry officer is directed to conclude the disciplinary proceedings and pass appropriate orders on merits and in accordance with law, after providing opportunity to the petitioner as well as respondents 6 and 7, within a period of six months from the date of receipt of a copy of this order and till such conclusion of the enquiry proceedings, the respondents 1 to 5 are directed not to give any effect to the recovery order.



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7. With the above directions, this writ petition is disposed of.

No costs. Consequently, connected miscellaneous petitions are closed.

19.12.2022

Index : Yes / No

Speaking Order : Yes / No

RM



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M.DHANDAPANI,J.

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