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1 of 6

[IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2023

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.12084 of 2022
and W.M.P No.11515 of 2022

Mr.V.S.Palanisamy

Petitioner

vs.

1.The Sub Divisional Executive Magistrate/Revenue Divisional Officer,
Erode, Erode District.

2.C.Prakash

3.Dr.S.M.Duraisamy

4.K.Mariyappan

Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the entire records relating to the impugned order passed by the 1st respondent in his proceedings No.Mu.Mu.176/ 2022/ Aa2 dated 23.04.2022 and quash the same.

For Petitioner : Mr.D.Rajagopal

For Respondents : Mr.V.Ramesh
Government Advocate for R1

Mr.M.Guruprasad for R3 and R4



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ORDER

This writ petition has been filed challenging the proceedings of the 1st respondent dated 23.04.2022 under Section 145 of Cr.P.C.

2.Heard Mr.D.Rajagopal, learned counsel appearing on behalf of the petitioner, Mr.V.Ramesh, learned Government Advocate appearing on behalf of the 1st respondent and Mr.M.Guruprasad, learned counsel appearing on behalf of the 3rd and 4th respondents.

3.When the matter came up for hearing on 05.07.2023, this Court directed the learned counsel for the petitioner to satisfy this Court as to how the writ petition is maintainable as against the order passed by the 1st respondent under Section 145 of Cr.P.C.

4.When the matter was taken up for hearing today, the learned counsel for the petitioner cited the judgment of the Apex Court in ***Gulam Abbas and others vs. State of Uttarpradesh and others*** reported in ***AIR 1981 SCC 2198*** and contended that a writ petition can always be maintained against an order passed under Section 145 of Cr.P.C.



5.The learned counsel for the petitioner having satisfied this Court on the maintainability of the writ petition, made his submissions touching upon the merits of the case and also the manner in which the 1st respondent had exercised the jurisdiction while passing the impugned order.

6.This Court also had the advantage of going through the counter filed by the private respondent and hearing the counsel appearing on behalf of the private respondent. This Court also heard the learned Government Advocate appearing on behalf of the 1st respondent.

7.This Court has carefully considered the submissions made on either side and also the materials available on record.

8.The dispute in hand is purely civil in nature and it has to be agitated only before the competent Civil Court. The 1st respondent while passing the impugned order had rendered certain findings touching upon the civil rights of the parties. That apart, the 1st respondent had also received the report from the concerned authority and relied upon the same. Ultimately, the 1st respondent came to a conclusion that the parties will have to resolve their dispute only before the Civil Court.



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9. Having carefully gone through the impugned proceedings of the 1st respondent, this Court is of the view that all the findings that have been rendered by the 1st respondent will have to be set aside. The ultimate decision that was taken by the 1st respondent by referring the parties to the Civil Court must be upheld. In view of the same, it is left open to the parties to approach the Civil Court and in fact the petitioner has already gone before the Civil Court and filed a suit in O.S.No.679 of 2022 pending before the Principal District Judge, Erode. The Civil Court shall decide the case purely on its own merits and in accordance with law and none of the findings rendered by the 1st respondent shall come in the way of the competent Civil Court while deciding the dispute.

10. This writ petition is disposed of in the above terms. No Costs. Consequently, connected miscellaneous petition is closed.

12.07.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
SSR



5 of 6

To

WEB COPY

1. The Sub Divisional Executive Magistrate/Revenue Divisional Officer,
Erode, Erode District.
2. The Public Prosecutor,
High Court of Madras,
Madras.



WEB COPY



6 of 6

N. ANAND VENKATESH., J.

SSR

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