



W.P(MD)No.8813 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.04.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.8813 of 2023

C.Thangaraj

... Petitioner

Vs.

1.The Director General of Police,
Mylapore,
Chennai.

2.The District Collector,
Tenkasi District.

3.The Superintendent of Police,
Tirunelveli District.

4.Ramakrishnan,
The Sub Inspector of Police,
Thevarkulam Police Station (L & O),
Tirunelveli District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the third respondent to take appropriate departmental action against the fourth respondent on the basis of the order of the second respondent vide Na.Ka.No.COLR/8637/2022-C2, dated 04.11.2022.



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For Petitioner : Mr.R.Chandrasubramanian

For Respondents : Mr.K.Balasubramani
Special Government Pleader

ORDER

Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for R1 to R3.

2. The petitioner had earlier filed W.P.(MD)No.4242 of 2023 and the prayer in the writ petition was as follows:-

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the first respondent to take department action against the fourth respondent and thereby pay adequate compensation and litigation expenses to the petitioner on the basis of the petitioner's representation dated 15.12.2022.

The writ petition was dismissed on 01.03.2023 with liberty to the petitioner to work out his remedy before the competent civil Court. The prayer in the present writ petition is for taking departmental action against the fourth respondent. The stand of the petitioner's counsel is that even though he made similar prayer in the earlier writ petition, it was not gone into. Explanation V to Section 11 of C.P.C is as follows:-

11. Res judicata. No Court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any



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of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court.

Explanation V. Any relief claimed in the plaint, which is not expressly granted by the decree, shall, for the purposes of this section, be deemed to have been refused.

3. Even though the provisions of CPC are not technically applicable to writ proceedings, the principle underlying the same can very well be invoked. Since this Court did not grant relief sought for by the petitioner in W.P. (MD)No.4242 of 2023, it should be deemed to have been refused. The present writ petition is hit by the vice of res judicata. The Writ Petition is dismissed. No costs.

18.04.2023

Index : Yes / No
Internet : Yes/ No
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To

1.The Director General of Police,
Mylapore,
Chennai.

2.The District Collector,
Tenkasi District.

3.The Superintendent of Police,
Tirunelveli District.



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G.R.SWAMINATHAN, J.

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