



WP.No.5495 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2024

CORAM

THE HONOURABLE Mr.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN

WP.No.5495 of 2022

S.Manikandan

... Petitioner

Vs.

1. The Bar Council of Tamil Nadu and Puducherry,
Represented by its Secretary,
N.S.C, Bose Road, Parrys,
Chennai-104.
2. Mrs.S.Kavitha

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a writ of Certiorarified Mandamus, calling for the records in the Resolution No.388 of 2021 dated 30.07.2021, on the file of the 1st respondent herein and quash the same as arbitrary, illegal and unjustifiable and further direct the first respondent to initiate disciplinary proceedings against the 2nd respondent herein based on the Complaint No.332 of 2020 and pass such further or other orders as this Hon'ble Court may deem fit and proper in the above facts and circumstances of the case.

For Petitioner : Mr.N.Baaskaran
For Respondents : Mr.C.K.Chandrasekaran
Standing Counsel for R1



WP.No.5495 of 2022

WEB COPY

ORDER

[Order of the Court was made by **S.M.SUBRAMANIAM, J.**]

The Resolution No.388 of 2021 dated 30.07.2021 passed by the Bar Council of Tamil Nadu rejecting the complaint filed by the petitioner against the 2nd respondent is under challenge in the present writ petition. The learned counsel for the petitioner Mr.N.Baaskaran would submit that the 2nd respondent was appointed as an Advocate Commissioner by the learned VII Assistant City Civil Court in O.S.No.2261 of 2019. The 2nd respondent acted illegally, break open the temple and entered into the premises and handed over the key to the plaintiff in the suit. Pertinently, no such permission has been granted by the Civil Court in the Commissioner warrant. Thus, the 2nd respondent committed an illegality.

2. Mr.C.K.Chandrasekaran, learned counsel appearing on behalf of the Bar Council of Tamil Nadu would submit that the 2nd respondent performed his duties as an Advocate Commissioner in a Civil suit and if at all the petitioner is aggrieved from and out of any action of the Advocate Commissioner, he has to make a complaint to the Court concerned and the Bar Council cannot conduct an enquiry.

3. The Advocate Commissioner has been appointed under Order 26



WP.No.5495 of 2022

WEB COPY

Rule 9 of CPC. The Advocate Commissioner is an officer of the Court. Even in case, an Advocate Commissioner appointed by the Court exceeded his/her limits, the objections if any by the parties to the suit has to be filed before the Court concerned for appropriate action. Contrarily, Bar Council cannot entertain such complaints related to the appointment of Advocate Commissioner in a Civil suit, unless such actions are directed to be initiated by the Court concerned. Therefore, the petitioner is at liberty to approach the Court concerned in the pending suit. The Bar Council has rightly rejected the complaint submitted by the petitioner for initiation of action for his conduct.

4. Accordingly, this writ petition is devoid of merits and the same is dismissed. No costs.

[S.M.S., J.] [C.K., J.]
11.06.2024

kmi

Index : Yes

Speaking order : Yes

Neutral Citation : Yes/No

To

The Bar Council of Tamil Nadu and Puducherry,
Represented by its Secretary,
N.S.C, Bose Road, Parrys, Chennai-104.



WEB COPY



WP.No.5495 of 2022

S.M.SUBRAMANIAM, J.
and
C.KUMARAPPAN, J.

kmi

WP.No.5495 of 2022

11.06.2024