



W.P.No.1187 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 03.02.2025

CORAM

THE HON'BLE MR. JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR. JUSTICE K. RAJASEKAR

Writ Appeal No.1187 of 2024

and

Civil Miscellaneous Petition No.8636 of 2024

J.S.Jeevanandham

... Appellant / R5

Vs.

1. P.Ganesamoorthy

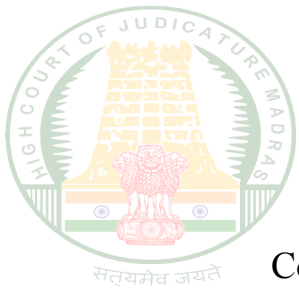
... R1 / Petitioner

2. The District Magistrate – cum
District Collector,
Coimbatore District,
Coimbatore.

3. The Sub Divisional Magistrate – cum
The Revenue Divisional Officer,
Coimbatore North, Coimbatore.

4. The Tahsildar,
Coimbatore North,
Coimbatore District.

5. The Sub Registrar,
Periyanaickampalayam,



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Coimbatore District.

... Respondents

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Writ Appeal filed under Clause 15 of Letters Patent Act, against the order dated 08.03.2023 (Corrected on 23.03.2023 and 20.04.2023) made in W.P.No.7068 of 2023.

For Appellant : Mr.N.Manoharan
For R1 : Mr.B.Gopalakrishnan
For R2 to R6 : Mr.T.Chandrasekaran,
Special Government Pleader

JUDGMENT

(Judgment of the Court was made by S.M.SUBRAMANIAM,J.)

The intra court appeal on hand has been instituted challenging the Writ Order dated 08.03.2023 passed in W.P.No.7068 of 2023. The fifth respondent in writ proceedings is the appellant before this Court.

2. The first respondent Mr.P.Ganesamoorthy instituted writ proceedings challenging the proceedings of the District Collector, Coimbatore dated 30.01.2023 regarding the date of death of one Mr.Palanisamy Gounder, who is the father of the first respondent



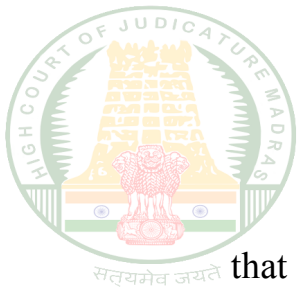
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Mr.P.Ganesamoorthy and the maternal grandfather of the appellant.

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3. Mr.N.Manoharan learned counsel appearing on behalf of the appellant would submit that even as per the information provided by the first respondent Mr.P.Ganesamoorthy before the Competent Authorities, Mr.Palanisamy Gounder died on 17.06.1984. The date of death was entered as per his own request of information provided to the Competent Authorities. However, he turned around and approached the Revenue Divisional Officer for change of the date of death of Mr.Palanisamy Gounder. The Revenue Divisional Officer accepted the request of the first respondent. Challenging the said order, the appellant filed appeal before the District Collector. The District Collector cancelled the order of the Revenue Divisional Officer and held that Mr.Palanisamy Gounder died on 17.06.1984. The original date of death of Mr.Palanisamy Gounder entered in the Death Register was confirmed by the District Collector. Thus, the Writ Petition has been instituted by the first respondent. The District Collector directed the authorities to lodge a criminal complaint for the forgery committed regarding entry of date of death in the Death Register.

4. The writ Court considered the issues and passed an order stating



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that issuance of Death Certificate in respect of the deceased, father of the first respondent is a disputed fact, which is to be adjudicated before the Competent Civil Forum. Accordingly, granted liberty to the first respondent to approach the Competent Civil Court. However, by way of an interim measure, the writ Court held that the criminal prosecution initiated as against the first respondent shall be deferred till the filing of Civil Suit. The matter was again listed under the caption “for being mentioned” on 23.03.2023, paragraph No.7 was modified by the writ Court as under:

*“The issue pertaining to issuance of death certificate in respect of the deceased father who is alleged to be the father of the petitioner being a disputed question of fact, this Court under Article 226 cannot adjudicate the same and the prayer sought for in this Writ petition cannot be acceded to. However the liberty is granted to the petitioner to work out his remedy before the competent civil forum **and the criminal prosecution initiated as against the petitioner shall be deferred till the filing civil suit.** Registry is directed to return the impugned order to the petitioner so as to enable the petitioner to work out his remedy in the manner known to law.”*

5. Once again, the matter was listed under the caption “ for being mentioned” and an order was passed on 20.04.2023 clarifying paragraph No.7 of the order as under:



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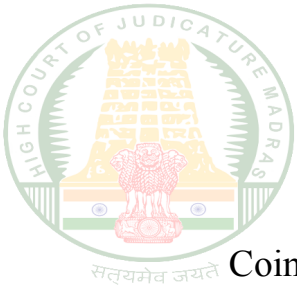


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“7. The issue pertaining to issuance of death certificate in respect of the deceased father who is alleged to be the father of the petitioner being a disputed question of fact, this Court under Article 226 cannot adjudicate the same and the prayer sought for in this Writ petition cannot be acceded to. However, the liberty is granted to the petitioner to work out his remedy before the competent civil forum and the respondents are directed to defer the criminal prosecution initiated as against the petitioner for a period four weeks from the date of receipt of a copy of this order so as to enable the petitioner to obtain appropriate orders by filing Civil Suit before the competent jurisdictional Court. Registry is directed to return the impugned order to the petitioner so as to enable the petitioner to work out his remedy in the manner known to law.”

6. However, on both the occasions, the writ Court has clarified that the criminal prosecution as directed by the District Collector is to be kept in abeyance, till such time the civil suit has been instituted by the first respondent. However, the institution of criminal case was not totally barred in the impugned order passed in the writ petition pursuant to the proceeding of the District Collector dated 30.01.2023.

7. That being so, the interim order passed by the writ Court lapsed, on account of the fact that the first respondent has instituted a civil suit in O.S.No.426 of 2023 on the file of the V Additional District Munsif Court at



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Coimbatore. The four weeks period granted in the subsequent clarificatory order by the writ court on 20.04.2023 also expired.

8. That being so, there is no bar for continuance of the criminal prosecution and also the civil case simultaneously and the parties are at liberty to establish their right or defend their case, as the case may be, before the competent court of law. Accordingly, the writ appeal stands disposed of. No costs. Consequently, the connected miscellaneous petition stands closed.

(S.M.S., J.)

(K.R.S., J.)

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ssi

Index: Yes

Speaking Order: Yes/No

Neutral Citation Case : Yes/No



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