



Rev.Aplw.(MD) No.57 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2024

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MRS.JUSTICE R.HEMALATHA

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Madurai Bench of Madras High Court  
Bar Association (MMBA) (S.No.109/04)  
Lawyers Chambers  
Hon'ble Madurai Bench of Madras High Court Campus  
Madurai 625 023  
Rep. by its General Secretary. .. Petitioner

Vs.

1. A.Radhakrishnan
2. The Secretary to Government  
Personnel and Administrative (Inspections)  
Reforms Department  
Secretariat, Chennai 600 009.
3. The Secretary to Government  
Tourism Culture and Endowments Department  
Secretariat, Chennai 600 009.
4. The Commissioner  
Hindu Religious and Charitable Endowments Department  
119, Nungambakkam High Road  
Chennai 600 034.



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5. The Chief Auditing Officer  
Hindu Religious and Charitable Endowments Department  
119, Nungambakkam High Road, Chennai 600 034.
6. The Director General of Police  
Dr.Radhakrishnan Salai, Chennai 600 004.
7. The Director of Vigilance and Anti-Corruption  
Alandu, Chennai 600 016.
8. The District Collector, Thoothukudi.
9. The Inspection Cell Officer  
Office of the District Collectorate, Tirunelveli.
- 10.The Executive Officer  
Arulmigu Subramaniaswamy Thirukoil  
Tiruchendur, Thoothukudi District. .. Respondents

Prayer: Petition filed under Order XLVII, Rule 1 of Civil Procedure Code to review the order dated 04.03.2021 passed in W.P.(MD) No.4725 of 2021.

For the Petitioner : Mr.M.Ajmal Khan  
Senior Counsel  
For Mr.T.Cibichakraborty

For the Respondents : Mr.S.Ashok  
for Respondent-1

Mr.A.Edwin Prabakar  
State Government Pleader  
for Respondents 2 & 6 to 9

Mr.S.Ravichandran  
Addl. Govt. Pleader (HR & CE)  
for Respondents 3 to 5 & 10



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ORDER  
(Made by the Hon'ble Chief Justice)

We have heard Mr.M.Ajmal Khan, learned Senior Counsel for the petitioner, Mr.S.Ashok, learned counsel for the original writ petitioner, Mr.A.Edwin Prabakar, learned State Government Pleader for the respondents 2 and 6 to 9 and Mr.S.Ravichandran, learned Additional Government Pleader (HR & CE) for the respondents 3 to 5 and 10.

2. The present review petition is filed for review of the order dated 04.03.2021 passed in W.P.(MD) No.4725 of 2021. The review petitioner is Madurai Bench of Madras High Court Bar Association. They are aggrieved by the observation made in paragraph 3 of the order dated 04.03.2021. Paragraph 3 of the order sought to be reviewed reads thus:

*"3. While it is appropriate to institute public interest litigations pertaining to the districts covered by the Madurai Bench of the High Court of Madras, when pan-State matters are the subject matter of any litigation, including the public interest litigation, they should be carried to the principal seat of the Court."*



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3. The petitioner is not seeking review of the entire order. The review is restricted to the observations made by the Division Bench of this Court in paragraph 3 of the order.

4. It appears that the observations made in paragraph 3 of the order sought to be reviewed were just a passing observation.

5. More over, the notification establishing the Bench at Madurai reads thus:

*"1. Short title and commencement:- (1) This Order may be called the Madras High Court (Establishment of a Permanent Bench at Madurai) Order, 2004.*

*(2) It shall come into force on 24.7.2004.*

*2. Establishment of a permanent bench of the Madras High Court at Madurai :-*

*There shall be established a permanent bench of the Madras High Court at Madurai, and such Judges of the Madras High Court, being not less than five in number, as the Chief justice of that High Court may, from*



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*time to time nominate, shall sit at Madurai in order to exercise the jurisdiction and powers for the time being vested in that High Court in respect of cases arising in the districts of Kanyakumari, Tirunelveli, Tuticorin, Madurai, Dindugal, Ramanathapuram, Virudhunagar, Sivaganga, Pudukkottai, Thanjavur, Nagapattinam, Tiruchirappalli, Perambalur and Karur in the State of Tamil Nadu: Provided that the Chief Justice of that High Court may, in his discretion, order that any case or class of cases arising in any such district shall be heard at Chennai."*

Subsequently, an amendment was issued to the notification on 26.10.2009 that Nagapattinam and Perambalur Districts notified under the jurisdiction of the Madurai Bench were deleted and came to be attached to the Principal Bench. The notification dated 26.10.2009 reads as follows:

*"THE MADRAS HIGH COURT  
(ESTABLISHMENT OF A PERMANENT BENCH  
AT MADURAI) AMENDMENT ORDER, 2009*

*In exercise of the powers conferred by sub-*



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*section (2) of section 51 of the States Reorganisation Act, 1956 (37 of 1956), read with section 21 of the General Clauses Act, 1897 (10 of 1897), the President, after consultation with the Governor of Tamil Nadu and the Chief Justice of the Madras High Court, is pleased to make the following order to amend the Madras High Court (Establishment of a Permanent Bench at Madurai) Order, 2004, namely:*

*1. (1) This Order may be called the Madras High Court (Establishment of a Permanent Bench at Madurai) Amendment Order, 2009.*

*(2) It shall come into force on the date of its publication in the Official Gazette.*

*2. In the Madras High Court (Establishment of a Permanent Bench at Madurai) Order, 2004, in paragraph 2, the words "Nagapattinam" and "Perambalur" shall be omitted.*

*3. Any appeal, application for leave to appeal to the Supreme Court, application for review and other proceedings pertaining to the Districts of Nagapattinam and Perambalur pending for disposal in the*



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*Madurai Bench of the Madras High Court prior to commencement of this Order shall stand transferred to the principal seat of the Madras High Court."*

6. The same was also considered by the Full Bench of this Court in the case of ***B.Stalin v. The Registrar, Supreme Court of India [2012 (4) CTC 113]***. The Full Bench summarised the legal position as was decided by the Division Bench of this Court in ***E.Mary Oliviya v. E. Jshoua Milton [2008 (7) MLJ 1012]***. The same reads thus:

*"27. Even otherwise, similar questions regarding cause of action and the territorial division between two benches have arisen before this court in more than one occasion. It is necessary to refer to one or two decisions. In E.Mary Oliviya Vs. E.Jsohua Milton reported in (2008) 7 MLJ 1012, a division bench of this court presided by P.K.Misra, J. (as he then was) went into the question of the jurisdictional issue after analyzing all cases cited by the Bar. In paragraph 42, the legal position has been summarized, which reads as follows :*

*"42. From the above discussion and analysis of various, provisions and decisions*



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*of several Courts, including the Supreme Court, our conclusions are as follows:*

*(1) Establishment of a Permanent Bench has the effect of bifurcation of the State into two for the purpose of territorial jurisdiction of the Madras High Court between the Principal Bench at Chennai and the Permanent Bench at Madurai.*

*(2) The District Courts and all other Courts inferior to that of the District Courts are subordinate to Madras High Court irrespective of its place of sitting.*

*(3) Appeal or Revision can be filed before the Principal Bench at Chennai or Permanent Bench at Madurai depending upon the situs of the Court against whose decision the Appeal or Revision is sought to be filed. An appeal or revision against the decision of a Court situate within the jurisdiction of the Principal Bench at Chennai has to be filed before the said, Principal Branch whereas the appeals and revisions arising from the orders of Courts coining within the districts earmarked for the permanent Bench at Madurai have to be*





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*filed at Madurai.*

*(4) Writ petitions can be filed before the Principal Bench at Madras or Permanent Bench at Madurai depending upon the place where the cause of action has arisen. If the cause of action has arisen wholly within the jurisdiction of the Principal Bench or the Permanent Bench, obviously such writ petition can be filed only at the seat of the Principal Bench or of the Permanent Bench as the case may be. On the other hand, if the cause of action arises either wholly or in part within the areas allotted to the Principal Bench at Chennai and the Permanent Bench at Madurai, the writ petition can be filed at any of the places.*

*(5) A proceeding for transfer under Sections 22 to 24 of the C.P.C., partakes the character of an original proceeding and can be filed before the Principal Bench or the Permanent Bench depending upon the "cause of action" or "the reason" for filing such transfer petition. In order to avoid any possible confusion in such matter relating to filing of transfer position, we make it clear*



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*that where a person seeks transfer of a case from a place to another place coming within the jurisdiction of one Bench, such transfer position has to be filed before the very same Bench. On the other hand, where transfer is sought from a Court coming within the jurisdiction of the other Bench, such transfer petition can be filed before either Bench, obviously depending upon the cause of action for such transfer petition and the convenience of the petitioner.*

*(6) The Honourable the Chief Justice has discretion to direct that any writ filed or pending before the Principal Bench or the Permanent Bench can be taken up for disposal before the Permanent Bench or the Principal Bench, as the case may be."*

*This should have set at rest all controversies regarding the jurisdiction between two benches. But unnecessary controversies have been raised without any fruitful purpose."*

7. Paragraphs 31 and 32 of the judgment in **B.Stalin** (supra)

read thus:

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"31. The petitioner's present prayer goes contrary to the dictum laid down by the Supreme Court in Rajasthan High Court Advocates' Association's case (cited supra) and such a prayer cannot be granted. In fact, some counsels who appeared in this case brought to the notice that even in case of Habeas Corpus writ petitions, the order of detention can be challenged both at the Principal Bench as well as before the Madurai Bench depending upon the cause of action including the place in which the advisory committee sat and passed orders and rejection sent by the Government. This is especially so that Article 21 of the Constitution guaranteeing liberty of a person cannot brook any delay and it is for the party to decide as to where such habeas corpus petitions should be filed. Even in those cases it is for the examining officers of the Registry to initially scrutinize the papers and in case of doubt, to place it before the Hon'ble Judge for an appropriate order both on administrative side as well as on judicial side. As already held, the petitioner, being an Advocate and cannot be said to be a person aggrieved, cannot question such matters.

32. Since the Chief Justice is the Master of Rolls and the jurisdiction of each High Court is well defined by



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*the Presidential order and by a catena of decisions of the Supreme Court as well as this Court defining the scope of the Presidential order as well as the territorial jurisdiction of the High Court under Article 226 and also the territorial divisions between the two High Courts having benches in the same State at different places and also the question of cause of action both in civil and criminal cases have been well settled, a direction sought for by the petitioner cannot be countenanced by this Court.”*

8. The notification as reproduced supra establishing the Bench at Madurai clarifies about the jurisdiction. The said notification further gives powers to the Chief Justice of the High Court, in his discretion, to order that any case or class of cases arising in any such district shall be heard at Chennai.

9. The administrative powers of the Chief Justice to transfer cases from Madurai Bench to principal seat would still be available.

10. To restrict the pan-State matters only at the principal seat



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would not be appropriate in view of the notification constituting the Bench at Madurai. If the Chief Justice feels that the case, instead of being heard at Madurai, is to be heard at Chennai, the same can be transferred by the Chief Justice at any point of time. However, blanket order that when pan-State matters are subject matter of litigation, the same should be filed only at principal seat would not be appropriate for the functioning of the Bench at Madurai nor it would be in tune with the notification constituting Madurai Bench and the judgment of the Full Bench of this Court in the case of **B.Stalin** (supra).

11. In the light of that, paragraph 3 of the order dated 04.03.2021 in W.P.(MD) No.4725of 2021 is recalled. The review petition accordingly stands allowed. Consequently, W.M.P.(MD) No.6174 of 2024 is closed.

(S.V.G., CJ.)

(R.H., J.)

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Neutral Citation : Yes/No

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THE HON'BLE CHIEF JUSTICE  
AND  
R.HEMALATHA, J

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