

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **01.07.2019**

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.13916 of 2019

A.Selvagurunathan ...Petitioner

-Vs-

- 1.The District Collector,
Office of the District Collector,
Tanjavur District.
- 2.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Kumbakonam, Tanjavur District.
- 3.The Tahsildar,
Office of the Tahsildar,
Tanjavur District.
- 4.The Revenue Inspector,
Office of the Revenue Inspector,
Aududhurai, Tanjavur District.
- 5.The Village Administrative Officer,
71, Melaiyur Revenue Village,
Thiruvidaimaruthur Taluk,
Tanjavur District. ...Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the respondents 1,2 and 3 to strictly instruct the fifth respondent to stay within the residential jurisdiction of the Melaiyur Revenue Village by considering petitioner's representation dated 09.03.2019 and

<http://www.judis.nic.in>13.06.2019 within the time stipulated by this Court.

For Petitioner : Mr.R.Alagumani
For Respondents : Mr.M.Rajarajan
Government Advocate

ORDER

The prayer in this writ petition is for a Writ of Mandamus, to direct the respondents 1, 2 and 3 to strictly instruct the fifth respondent to stay within the residential jurisdiction of the Melaiyur Revenue Village, by considering the petitioner's representations, dated 09.03.2019 and 13.06.2019, within the time stipulated by this Court.

2.I have heard Mr.R.Alagumani, learned counsel appearing for the petitioner and Mr.M.Rajarajan, learned Government Advocate appearing for the respondents.

3.The petitioner is the resident of the Village called Pazhiyanchiyanallur, Melaiyur Post, Thiruvudaimaruthur Taluk, Thanjavur District, which, comes under the revenue village, called Melaiyur village, where there is a Village Administrative Officer by name, D.Thinakaran. Though the Village Administrative Officer has been appointed for the said revenue village and as per the relevant Service Rules and Government instructions issued from

<http://www.judis.nic.in> time to time, the Village Administrative Officer concerned supposed

to be in the village itself, in other words, the Village Administrative Officer must reside in that village and discharge his duties, the said individual is not residing in the said village and he will be leaving by Friday afternoon to his native place and come back either on Monday afternoon, or sometime even, Tuesday. He may not be available in the concerned village and because of the non availability of the Village Administrative Officer concerned in the village, despite the instructions given by the Government in this regard, the petitioner and other similarly placed people of that village are affected in getting necessary assistance with regard to the Government Schemes through the Village Administrative Officer concerned.

4. Only in that circumstances, the petitioner seems to have given representation to all the respondents herein on 09.03.2019 and in this regard, the representation given to the first respondent/ the District Collector on 09.03.2019, reads thus:-

“ஐயா,

நான் மேற்படி விலாசத்தில் நிரந்தரமாக வசித்து வருகிறேன். எங்கள் வருவாய் கிராமம் திருவிடைமருதூர் தாலுக்கா 71, மேலையூர் ஆகும். மேற்படி கிராமத்தின் நிர்வாக அலுவலர் திரு.D.தினகரன், தான் பணி செய்யும் வருவாய் கிராமத்தில் தங்கி பணி செய்யாமல் கும்பகோணத்தில் அறை எடுத்து தங்கிக் கொண்டு தினமும் காலை 11.00-மணியளவில் தனது அலுவலகம் அமைத்துள்ள 71, மேலையூர் வருகிறார். மேலும் மதியம் 1.00 மணியளவில் புறப்பட்டு தாலுக்கா அலுவலகம் அல்லது வருவாய் ஆய்வாளர் அலுவலகம் செல்லுவதாக கூறிவிட்டு, கும்பகோணம் சென்றுவிடுகிறார். இவர் 71, மேலையூர் கிராமத்தை தவிர வேறு எந்த வருவாய் கிராமத்தையும் கூடுதலான பணி

செய்யவில்லை.

ஒவ்வொரு வாரமும் வெள்ளிக் கிழமை மதியம் தனது சொந்த மாவட்டம் சென்றுவிட்டு, திங்கள் கிழமை மதியம் அல்லது செவ்வாய் கிழமை மதியம் தனது அலுவலகம் வருகிறார்.

அவர் தனது வருவாய் கிராமத்தில் தங்கி பணி செய்ய உத்தரவு பிறப்பிக்கும்படி கேட்டுக்கொள்கிறேன்.

மீண்டும் இவரது நடவடிக்கை தொடர்ந்தால் நீதிமன்றம் நாடி அவர் இங்கு தங்கி பணிசெய்ய நீதிமன்றம் உத்தரவு பெறவேண்டி வரும் என்பதை தாழ்மையுடனும், பணிவுடனும் தெரிவித்துக் கொள்கிறேன்.

இடம்: பழியஞ்சியநல்லூர் தங்கள் உண்மையுள்ள,

நாள்: 09.03.2019”

5. Similar representations have been given to the respondents 2, 3 and 4 also. The said representations seem to have been given through registered post and the same had been reached the respondents. However, no action seems to have been taken by the respondents. Therefore, the petitioner has made an application under the Right to Information Act, 2005 to the first respondent office and sought for the address of the Village Administrative Officer concerned of his village. In this regard, the first respondent, by communication dated 06.04.2019, has made the following:-

5	அ.செல்வகுருநாதன் 570 வடக்குதெரு, பழியஞ்சியநல்லூர் மேலையூர் அஞ்சல் ஆடுதுறை வழி திருவிடைமருதூர் வட்டம்	திருவிடைமருதூர் மேலையூர் கிராமம்-கிராம அலுவலர் திரு.டி.தினகரன் வருவாய் கிராமத்தில் தங்கி பணி செய்யாமல் கும்பகோணத்தில் அறை எடுத்து தங்கி அலுவலகத்திற்கு நேரம் தவறி வருவதாக புகார்	வட்டம்- நிர்வாக திருவிடைமருதூர்	வட்டாட்சியர் திருவிடைமருதூர்
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6. Thereafter, yet another detailed representation had been given by the petitioner to the respondents 1 and 2 on 13.06.2019 making complaint against the Village Administrative Officer alleging that, the Village Administrative Officer is not residing in the village and discharging his duties. Since no action has been taken by the respondents, the petitioner has moved this writ petition with the aforesaid prayer.

7. I have heard the learned counsel appearing for the petitioner, who would submit that, the complaints that the Village Administrative Officers are not staying at the village concerned, has engaged, earlier, in writ petitions filed before this Court in number of occasions and ultimately before the Division Bench of this Court, the issue has been thoroughly discussed and a detailed order was passed by the Division Bench of this Court in a reported judgment in **2011 (5) CTC 515** in the matter of ***K.S.Vivekanandam Vs., The Chief Secretary, Government of Tamil Nadu, and others***, where directions have been given.

8. The learned counsel for the petitioner would also submit that, despite the judgment of the Division Bench and despite the relevant rule position as well as the instructions time and again issued by the Government to the Village Administrative Officers to reside in the village concerned, that instructions have not been

followed and in this regard, despite the direction given by the Division Bench in its judgment cited above, no disciplinary action seems to have been taken against any Village Administrative Officer and the higher officials failed to monitor the erring Village Administrative Officers. Therefore, the learned counsel for the petitioner seeks indulgence of this Court, in the present case also, as the petitioner is facing the similar situation since the Village Administrative Officer is not residing in the village and discharging his duties.

9.I have heard Mr.M.Rajarajan, learned Government Advocate appearing for the respondents, who would fairly submit that, there are Government Orders and instructions, which compelled the Village Administrative Officers concerned to reside in the village. Despite the same, very often, this kind of complaints are received. Whenever, such complaints are received by the higher officials, like Tahsildar, Revenue Divisional Officer and District Collector, sometimes instructions have already been given to these higher officials in District level, Division level and Taluk level to look into the matter. This kind of the instructions have been given by the Government in more than one case. Therefore, the learned Government Advocate would submit that, if this kind of complaints once again come, the same would be dealt with accordingly and therefore, suitable directions can be given by this

Court to the officials concerned to take action against the erring Village Administrative Officers, who have been allegedly violating the instructions given in this regard to reside in the village itself.

10.I have considered the said submissions made by the learned counsel appearing for both sides and perused the materials placed before this Court.

11.The issue raised in this writ petition is not a new one to this Court, as the same seems to have been dealt with in number of occasions before this Court in various proceedings.

12.In this regard, in the year 1990 itself, the Special Commissioner and Commissioner for Revenue Administration has issued instructions, which read thus:-

"கிராம நிர்வாக அலுவலர்கள் தங்களது பொறுப்பு கிராமத்தில் தங்குவதை உறுதிபடுத்தவும் மற்றும் சட்ட விரோத செயல்களில் ஈடுபடுதலை தடுக்கவும் தக்க நடவடிக்கை எடுக்க பார்வையில் கண்டுள்ள கடிதங்களில் அறிவுரைகள் வழங்கப்பட்டுள்ளன. கிராம நிர்வாக அலுவலர்கள் பலர் இன்னும் பொறுப்பு கிராமத்தில் தங்கிப் பணிபுரிவதில்லை என்பதும் இது தொடர்பாக ஏற்கெனவே வழங்கப்பட்டுள்ள அறிவுரைகள் சரிவர கடைபிடிக்கப்படவில்லை என்பதும் அரசின் கவனத்திற்கு கொண்டு வரப்பட்டுள்ளது. மேலும் 08.04.1988 மற்றும் 09.04.1988-இல் நடைபெற்ற மாவட்ட ஆட்சித்தலைவர்களின் கூட்டத்தில் கிராம நிர்வாக அலுவலர்கள் பொறுப்பு கிராமத்தில் தங்குவதில்லை என்றும் அதனால் சட்டம் ஒழுங்கு தொடர்பான விவரங்கள் மேல் அதிகாரிகளுக்கு உடனடியாக தெரிவதில்லை என்றும் கருத்து தெரிவித்துள்ளார்.

2.கிராம நிர்வாக அலுவலர்கள் பொறுப்பு கிராமத்தில் தங்கவில்லை என்றால் அவர்கள் மீது தமிழ்நாடு குடிமைப்பணி (வகைப்பாடு கட்டுப்பாடு மற்றும் மேல்முறையீடு) விதி 17 (ஆ) இன்படி கடுமையான ஒழுங்கு நடவடிக்கை எடுக்கப்பட வேண்டும். கிராம நிர்வாக அலுவலர்கள் பொறுப்பு கிராமத்தில் குடியிருக்கின்றனரா என்பதை வட்டாட்சியர்/கோட்டாட்சியர் ஆகியோர் நேரடி விசாரணை செய்து உறுதி செய்யப்படவேண்டும். கிராம நிர்வாக அலுவலர்கள் பொறுப்பு கிராமத்தில் தங்கவில்லை என்று பொது மக்களிடமிருந்து புகார் மனுக்கள் பெறப்பட்டால் சம்பந்தப்பட்ட கோட்டாட்சியர் நேரடியாக தல விசாரணையை மூன்று தினங்களுக்குள் நடத்தி அதன் மீது தக்க நடவடிக்கையை மேற்கொள்ளவேண்டும். இந்த விசயத்தில் கோட்டாட்சியர்/வட்டாட்சியர் ஆகியோர் நேரடி பொறுப்பு ஏற்க வேண்டும். அரசினாலும் இவ்வலுவலகத்தினாலும் இது தொடர்பாக வழங்கப்படுகின்ற அறிவுரைகள் சரிவர கடைபிடிக்கப்படவில்லை என்றால் சம்பந்தப்பட்ட அலுவலர்கள் மீது கடுமையான ஒழுங்கு நடவடிக்கை எடுக்கப்படும் எனத் தெரிவித்துக்கொள்கிறேன்.”

13.Subsequently, yet another instruction was given by the Special Commissioner and Commissioner for Revenue Administration, which reads thus:-

"4.Even after issue of repeated instructions, it is noticed that the instructions have not been carried out effectively and most of the Village Administrative Officers are still not residing in their charge villages. Some of the members of the recognised and non-recognised associations are found loitering at Chennai leaving work without anybody's permission and have been allowed to leave their officers are therefore, requested to enforce the orders of the Government strictly in the matter and instruct the Village Administrative officers to reside in the charge villages on pain or removal from service. They may also to instruct the Revenue Inspectors, Tahsildars and Revenue

Divisional Officers to ensure that the Government orders in the matter are obeyed and that no Village Administrative Officers should be allowed to leave this charge village without the disobedience of the orders of the Government, their services should be dispensed with after due notice following the procedures laid down. "

14. Subsequently, the issue came up before the Division Bench in the Judgment cited above, where the Division Bench, after having taken note of the rule position as well as the instructions given by the Government to the Village Administrative Officers, has observed as follows:-

"3. It appears that earlier there had been part-time hereditary Village Officers functioning prior to 14.11.1980. That system was abolished by Tamil Nadu Ordinance dated 14.11.1980 and in that place, part-time Village Officers, Full Time Village Administrative Officers were appointed in all the Revenue Villages in the State. Later on, the post of Village Administrative Officer was brought within the purview of Tamil Nadu Public Service Commission and the Rules were amended to the effect that appointments to the post of Village Administrative Officers shall be made by direct recruitment through Tamil Nadu Public Service Commission. According to Rule 10 of Annexure read with Rule 38(b)(iii) of the Tamil Nadu Ministerial Service Rules, every person appointed to the post of Village Administrative Officer shall reside in the village under his charge and shall continue to reside in the said village so long as he holds the post.

4. At this stage, we must mention that the nature of work of Village Administrative Officers inter alia is that they shall maintain Village Revenue Records, collect various taxes including Land Tax, send report with regard to Community Certificate, Income Certificate, Nativity Certificate and assessment of property value. They are also required to discharge the duty of maintaining Birth and Death Registers, sending information about the fire accidents, floods, cyclone and other natural calamities to the superior officers, giving information to the Police with regard to murder, suicide and suspicious death and also to assist them in investigation. The Village Administrative Officers have also been assigned many other works, which could be discharged only when the Village Administrative Officers remain in the village. "

15. The Division Bench, after having taken note of the instructions given by the Principal Secretary to Government, Revenue Administrative and Disaster Management and Mitigation Department, Government of Tamil Nadu to all the District Collectors in letter No.Ser.5(1)31235/2011 dated 15.06.2011, has given the following directions:-

"8. From a bare perusal of the aforesaid instruction, a duty has been cast upon the District Revenue Officer, Revenue Divisional Officers and Tahsildar for strict enforcement of the instructions and for reporting the status to the Government. They have also been requested to take Disciplinary action against

the erring Village Administrative Officers. As submitted by the learned Government Pleader such instructions have been issued earlier also. If that is so, then why instructions have not been followed by the Village Administrative Officers and if they are, in fact, violating the instructions then why not disciplinary action be taken against the Tahsildar or the Revenue Divisional Officers or District Revenue Officer for not discharging their duties and for not monitoring the day work of the Village Administrative Officers.

9. Having regard to the instructions issued by the Government, we, therefore, dispose of this writ petition with a direction that if the Village Administrative Officers are not strictly discharging their duties and if any complaints are received, then disciplinary action may also be taken simultaneously against the Superior Officers also for not supervising and enforcing their presence in the village. No costs. Consequently, Miscellaneous Petition is closed.

10. We direct the Principal Secretary/Commissioner of Revenue Administration, Government of Tamil Nadu to communicate or circulate this order to all District Collectors, Revenue Divisional Officers and upon the Village Administrative Officers. “

16. Pursuant to the said directions issued by the Division Bench in the Judgment cited above, the Principal Secretary and Commissioner of Revenue Administrative issued yet another circular in Circular No.13 of 2017 in R.C.No.Ser V (1)/7364/2014,

<http://www.judis.nic.in> which reads as follows:

"4. Therefore in order to avoid any unpleasant situation being made the following instructions are issued for strict adherence.

- i. All the Revenue Divisional Officers, Tahsildars, Zonal Deputy Tahsildars and Revenue Inspectors to ensure that all the Village Administrative Officers reside in the respective charge villages and discharge their duties by means of surprise checks.
- ii. Movement register has to be operated in the charge village.
- iii. Residential address has to be obtained from all the Village Administrative Officers through Revenue Inspector concerned.
- iv. Fortnight diary of the Village Administrative Officers has to be obtained and to be checked by the Zonal Deputy Tahsildars after obtaining the views of Revenue Inspector.
- v. All the above particulars has to be sent through Pdl by 10th of every month.

5. Collectors are instructed to send a certificate immediately to the effect that the above said instructions have been communicated to all the Revenue Divisional Officers, Tahsildars, Zonal Deputy Tahsildars, Revenue Inspectors and Village Administrative Officers. The circular shall also be uploaded in the district website. If there are any complaints regarding non availability of Village Administrative Officers in the village then concerned firka Revenue Inspector and Zonal Deputy Tahsildar will be held responsible and disciplinary action initiated against them as well as the Village

Administrative Officer. If there is any complaint, the supervisory officer will be held responsible and disciplinary action should be initiated against them as well as the erring."

17.Despite all these instructions and directions given by the Division Bench of this Court in the judgment cited above, thereafter, individual cases also filed before this Court time and again, where, it seems that, the menace of not residing in the village concerned by the Village Administrative Officers posted there, is continuing. As has been made it very clear by the said Division Bench's Judgment that, the job of the Village Administrative Officer is multi-fold and in order to discharge the duties to the satisfaction of all concerned of the village, the Village Administrative Officer must reside in that village. In his absence, it is very difficult for the Revenue Department to execute some of the emergent work, which arises at time and therefore, because of that situation only, the Government insist the Village Administrative Officer to reside in that village itself.

18.Moreover, when making the recruitment through Tamil Nadu Public Service Commission by issuing notification inviting the applications from the prospective candidates to be selected for Village Administrative Officer posts, the following instructions are given by the Tamil Nadu Public Service Commission in the

<http://www.judis.nic.in>brochure itself as one of the conditions, which reads thus:-

“(G)Place of Residence on Appointment (for the posts of VAO only)

Every person appointed to the post shall reside in the Village under his charge and shall continue to reside in the said Village as long as he/she is in-charge of that village.”

19. Therefore, it is nothing but a mandatory condition attached with the appointment/service of the Village Administrative Officer to reside in the village, where he is posted. If the Village Administrative Officer is in-charge to other village, then, he can reside in primary village, where he has been posted and he can visit the village, where he is posted as the in-charge village. Suppose, if the Village Administrative Officer is posted in a particular village, he must reside in that village and discharge his duty. If at all the Village Administrative Officer wants to go from that village for his personal reasons, prior permission must be obtained from the Tahsildar concerned, that too, in unavoidable circumstances. Without prior permission, if the Village Administrative Officer left the village, where he is posted, that will nothing but, not only the violation of the Rules/Instructions, Circulars issued in this regard, but also to be considered as the dereliction of duty.

20. In this context, the Division Bench has already given an exhaustive direction to all higher officers concerned to take disciplinary action against the erring Village Administrative Officers. However, despite the violation of the Village Administrative Officers is brought to the notice of the higher officials, necessary action have not been taken against the Village Administrative Officers. If the higher officers, like Tahsildar/Revenue Divisional Officer concerned are not taking any action against the erring Village Administrative officers, disciplinary action can very well be initiated against the higher officials for not having taken action against the erring Village Administrative Officers. In this context also, number of directives and instructions have been issued by the Government through the Commissioner of Revenue Administration. Despite these circulars and instructions have been issued and directions have also been given by this Court, especially, in the judgment of the Division Bench cited supra, it seems that, it has not been effectively implemented by the stakeholders. Therefore, this Court cannot give repeated directions on the same issue for years together as that will make the entire system mockery.

21. In view of the above, by taking note of the factual matrix of this case, as the petitioner has made a definite complaint against the Village Administrative Officer of his village that, he is not

residing in the village and in this regard, despite his efforts in making complaint and representations to all the Revenue officials of the District concerned, who are the respondents herein, no fruitful result has come from them and with the result, the affected citizen of the village has approached this Court.

22. This kind of perennial litigation become inevitable, if the stakeholders/official concerned acted upon against their own rules and regulations or circulars issued by the Government or against compliance of the directions issued by this Court. In both way, since they have failed, these kind of litigations very often is confronting and taking the judicial time of this Court.

23. Therefore, in order to give a quietus to this issue, this Court, while disposing this writ petition, is inclined to give the following directions to the stakeholders and this shall be scrupulously followed and shall be strictly implemented:-

1. that every District Collector shall constitute a Grievance Cell in the District level headed by an officer not below the rank of Revenue Divisional Officer; in the said grievance cell, two more officials in the rank of Tahsildar to be inducted;

2. The District collector shall give advertisement making note to the public that such grievance cell has

been constituted in the district to receive complaints from the public against any Village Administrative Officer in that revenue district;

3. After constituting the grievance cell, which shall be given clear instructions by the District Collector concerned, that the grievance cell, on receipt of any complaints from anywhere in that revenue district against the Village Administrative Officer, within a period of three days, the Village Administrative Officer shall be summoned and after giving an opportunity of being heard to him, the grievance cell shall prepare a report and based on which, the grievance cell shall recommend suitable disciplinary action against the erring Village Administrative Officer, if they found any reason to recommend for disciplinary action. Such recommendatory report shall be forwarded to the concerned disciplinary authority, who shall immediately take disciplinary action against the Village Administrative Officer by framing charges and placing the Village Administrative Officer concerned under suspension. Such action shall be taken by the disciplinary authority, on receipt of the recommendatory report from the grievance cell, within a period of one week.

4.If action is taken against any erring Village Administrative Officer by the disciplinary authority as set out above by suspending him, during the pendency of the disciplinary proceedings, alternative arrangement shall be made by the posting authority in order to ensure that work in that village is not affected.

5.The necessary orders constituting such grievance cell by District Collector concerned shall be passed within a period of two weeks from the date of receipt of a copy of this order and compliance to that effect shall be filed by the District Collectors through the concerned Government Pleader before this Court during the next hearing and for the said purpose, this case shall be posted on 01.08.2019.

24.With these directions, the Writ Petition is disposed of. No

costs.

WEB COPY **01.07.2019**

Index : Yes/No

Internet : Yes/No

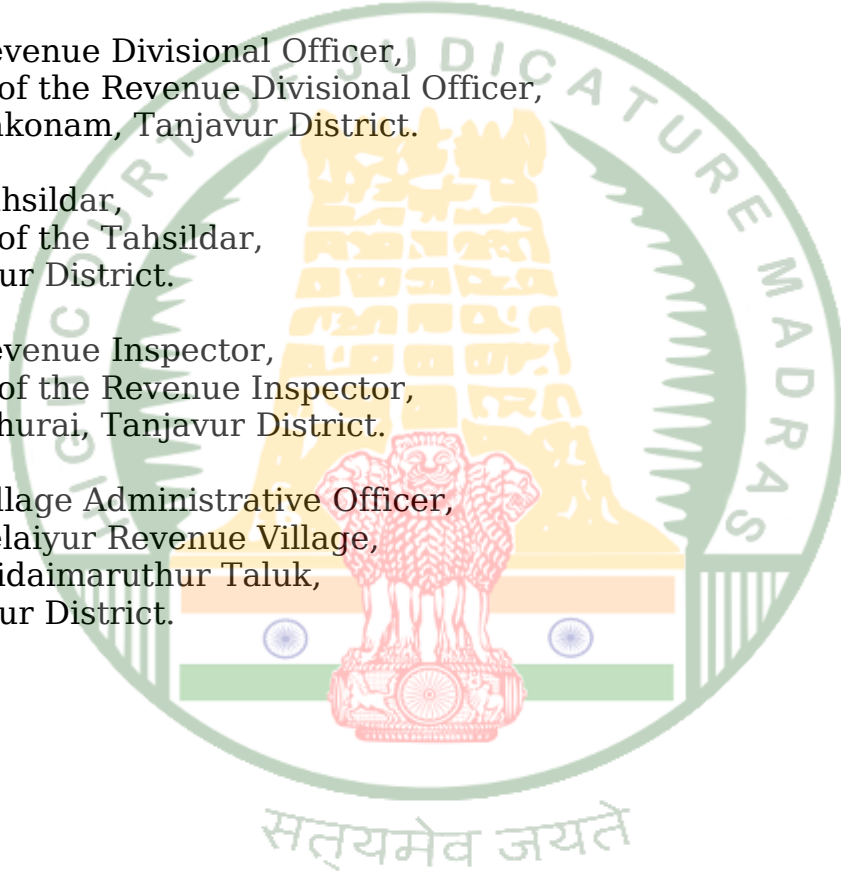
rmk

Note : (i) Registry is directed to mark this order copy to all the District Collectors throughout the State for compliance of the aforesaid directions.

(ii) Issue order copy on 05.07.2019

To

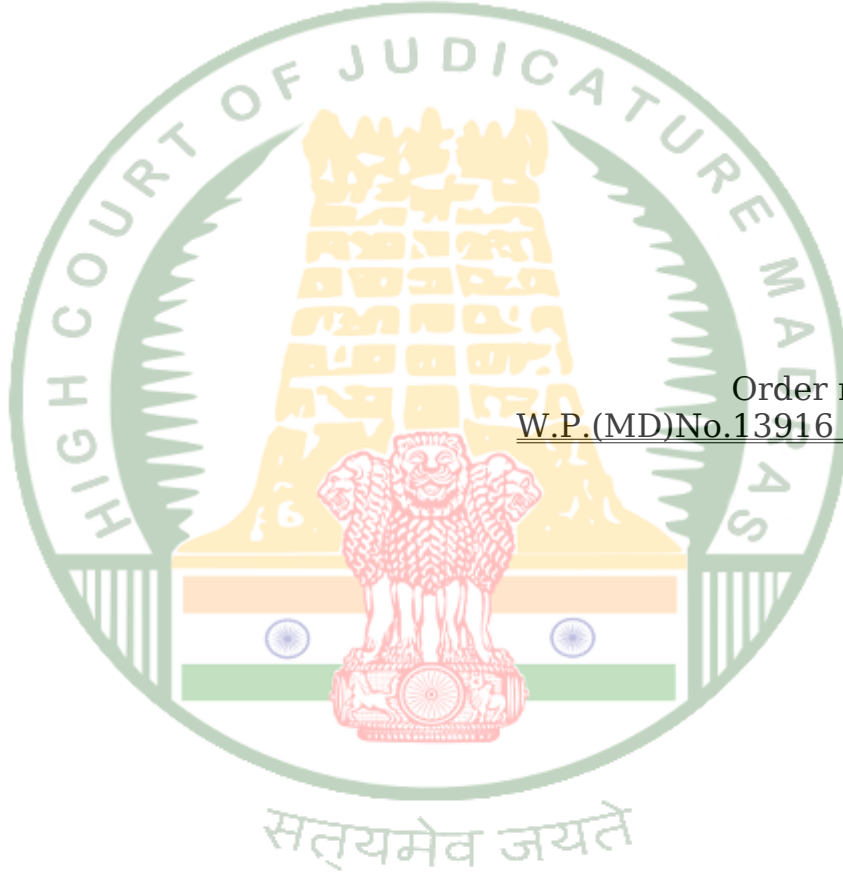
- 1.The District Collector,
Office of the District Collector,
Tanjavur District.
- 2.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Kumbakonam, Tanjavur District.
- 3.The Tahsildar,
Office of the Tahsildar,
Tanjavur District.
- 4.The Revenue Inspector,
Office of the Revenue Inspector,
Aududhurai, Tanjavur District.
- 5.The Village Administrative Officer,
71, Melaiyur Revenue Village,
Thiruvaidaimaruthur Taluk,
Tanjavur District.



WEB COPY

R.SURESH KUMAR ,J.

rmk



Order made in
W.P.(MD)No.13916 of 2019

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01.07.2019.