

THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 08.04.2025

PRONOUNCED ON : 25.04.2025

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CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

**W.P.No.33564 of 2024
& W.M.P.No.36348 of 2024**

R.Manivasagan,
S/o.D.Ramasami,
No.304/2, Kalarampatty Main Road,
Ayyasami Kadu, Salem,
Tamil Nadu - 636 015.

...

Petitioner

versus

1.The Registrar General,
High Court of Madras,
High Court Buildings,
Chennai - 600 104.

2.The Government of Tamil Nadu,
Rep. by its Additional Chief Secretary,
Home (Courts-I) Department,
Secretariat, Chennai - 600 009.

...

Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus, calling for the records from the second respondent relating to G.O.(2D)No.8 Home (Courts-I) Department, dated 06.01.2023, quash the same and consequently direct the respondents to reinstate the petitioner in service as Civil Judge (Junior



Division) with continuity of service, all attendance and other benefits including seniority and promotion.

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For Petitioner : Mr.A.K.Sriram
Senior Counsel
for Mr.R.Murali

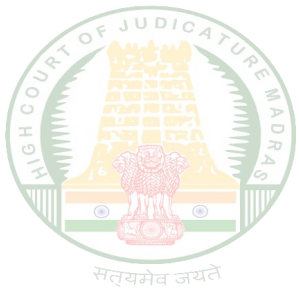
For Respondents : Mr.E.Chandrasekaran
Standing Counsel -R1
Mr.S.John J.Raja Singh
Additional Government Pleader -R2

ORDER

(Order of the Court was made by **G.ARUL MURUGAN, J.**)

This Writ Petition is filed challenging the order of the second respondent in G.O.(2D)No.8 Home (Courts-I) Department, dated 06.01.2023, whereby the punishment of 'dismissal from service' was imposed on the petitioner.

2. The petitioner was appointed as Civil Judge (Junior Division) in the Tamil Nadu State Judicial Service on 15.09.2015. While he was serving as Judicial Magistrate, Additional Mahila Court, Tiruchirappalli, he was issued with a charge memorandum dated 18.06.2021 under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955 [hereinafter referred to as "the Rules"] framing the following charge:-



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“That you, Thiru.R.Manivasagan, after taking charge of the post of Judicial Magistrate, Additional Mahila Court, Tiruchirappalli on 06.05.2019, having taken cognizance of the directions of the Hon'ble Madurai Bench of Madras High Court, Madurai vide Order dated 06.03.2019 to dispose of Crl.M.P.No. 3376 of 2018 in D.V.C.No.107 of 2016 within a period of two months from the date of receipt of the copy of that Order as evidenced from your docket Order dated 13.05.2019, did not follow the directions given by the Hon'ble Madurai Bench of Madras High Court in the Order said above and kept on adjourning the case from time to time and finally gave disposal to this case, by making it appear as though you pronounced a common order in Crl.M.P.No.3376 of 2018 in D.V.C No.107 of 2016 and Crl.M.P. No.558 of 2019 on 18.09.2019 by ante-dating the order which is reflected from the lack of corresponding entry in the 'A' Diary for the alleged posting of case on 04.09.2019, 09.09.2019, 12.09.2019 and 18.09.2019 as noted in the docket sheet, thus clandestinely indulged in manipulation of case records, deliberately ante-dating the order which was prepared on a subsequent date.

Thus, you have committed the acts of serious misconduct viz., fraud, insubordination, dereliction of duty, misrepresentation, irregular and truncated Court Proceedings, and have also failed to maintain absolute integrity and devotion to duty and have acted in a manner which is unbecoming of Judicial Officer; violating Rule 20 of the Tamil Nadu Government Servants' Conduct Rules, 1973. Hence, you rendered yourself liable to be proceeded with under Rule 17 (b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules.”



3. The petitioner submitted his reply on 13.07.2021 and not satisfied with the explanation, an enquiry officer was appointed. The delinquent had participated in the enquiry and P.W.1 to P.W.5 were examined on the side of the Department and Exs. P.1 to P.14 were marked. The delinquent did not choose to examine any witnesses but however, marked Exs. D.1 to D.22.

4. On conclusion of the enquiry, the enquiry officer submitted the enquiry report on 27.01.2022, holding the charge as proved. A second show cause notice was issued to the delinquent on 06.04.2022 forwarding the enquiry report and the delinquent submitted his reply on 27.05.2022. The enquiry report and the further explanation of the delinquent were all placed before the Administrative Committee of the High Court and the Committee, by its Resolution dated 20.07.2022, accepted the findings of the enquiry officer and proposed to impose the punishment of dismissal from service.

5. The Resolution was placed before the Full Court on 08.08.2022, wherein the Resolution of the Committee was approved. Pursuant to which, the second respondent *vide* the impugned order, had

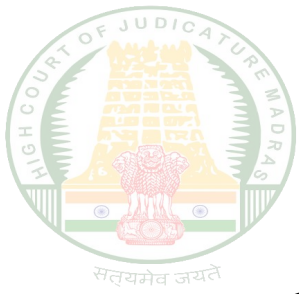


imposed the punishment of dismissal from service. Assailing the same, the petitioner had come up with the present writ petition.

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6. Mr.A.K.Sriram, learned Senior Counsel assisted by Mr.R.Murali, appearing for the petitioner contended that the delinquent had only taken charge in the respective court on 06.05.2019. During the hearing on 06.06.2019, the execution petition was adjourned only for want of the main case bundle in D.V.C.No.107 of 2016, which was found missing. It is his further contention that immediately, on the bundle having been traced and placed before the delinquent, order in Ex.P.12 has been pronounced in the petition on 18.09.2019 itself.

7. Further it is the vehement contention of the learned Senior Counsel that when the case was admittedly listed for hearing on 04.09.2019, 09.09.2019, 12.09.2019 and 18.09.2019, those hearings had not been carried out in the A-diary and therefore, merely because the entry of the order passed on 18.09.2019 is not reflected in the A-diary, it cannot be assumed that only since the order was not pronounced, it does not find place in the A-diary. Only based on which, the enquiry officer had presumed that the order had been passed later but had been antedated as 18.09.2019.



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8. It is his further submission that if the counsel of the complainant had not informed her about the order dated 18.09.2019, the same cannot be put against the delinquent. The mail in Ex.P.3 sent by the advocate P.W.2 and the enquiries made with him would go to show, that the lapse on the part of the advocate is foisted against the delinquent.

9. Learned Senior Counsel further contended that the enquiry officer had mainly relied on the findings of the learned District Judge, in holding the charge as proved, which is unsustainable, as the proceedings in the preliminary enquiry cannot be relied on in the domestic enquiry. It is his further contention that when the delinquent had passed the order on 18.09.2019, the failure on the part of P.W.3 and P.W.5 in not taking further proceedings by sending the copy of the order to the jurisdictional Police Station and the Hon'ble High Court cannot be put against the delinquent and the non-issuance of a memo in this regard also cannot be presumed adversely against the delinquent.

10. Learned Senior Counsel further submitted that if the proceedings conducted in the enquiry is viewed from the recordings, it can



be seen that the witnesses had given evidence based on instructions from some third persons and therefore, the enquiry conducted is not proper. It is his alternate contention that for the delinquency, the capital punishment of dismissal from service imposed is not proportionate to the charges and therefore, he sought for interference of this Court.

11. Contending contra, Mr.E.Chandrasekaran, learned Standing Counsel appearing for the first respondent submitted that, based on the complaint received from P.W.1, preliminary enquiry was conducted and a charge memo was issued. After receiving the reply, the disciplinary proceedings were conducted in a proper and fair manner by affording sufficient opportunity to the delinquent. The delinquent had participated in the enquiry and had cross-examined the witnesses and also filed documents on his side.

12. The learned Counsel further contended that when the enquiry has been conducted in a fair and proper manner, then it is for the disciplinary authority to decide on the appropriate punishment to be imposed for the delinquency and the disciplinary authority had concluded



that the punishment of removal from service would be appropriate, which has been imposed on the delinquent.

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13. It is his further contention that in the order in Ex.P.12, the delinquent had recorded that the same had been dictated to P.W.4 which was typed by her directly in the delinquent's laptop. P.W.4 had clearly deposed that she had always typed orders in the office desktop and further, from the hard disk, the details on which date the order was typed could be easily ascertained. In such circumstances, the delinquent could have easily produced the hard disk of his laptop, which would have revealed whether at all Ex.P.12 was typed in his laptop and if so on which date. However, the delinquent had consciously withheld and not produced the same, which only leads to a presumption under Section 14(g) of the Indian Evidence Act, 1872, that the order was not typed as stated.

14. He further submitted that inspite of affording opportunity, the delinquent had not come forward to produce any witness on his side. It is his further contention that if the order in Ex.P.12 had been passed on 18.09.2019, then it was mandatory on the part of the delinquent to forward a copy of the order to the concerned jurisdictional Police Station under



Section 20(4) of the Protection of Women from Domestic Violence Act, 2005 [hereinafter referred to as “D.V. Act”]. Further, the order ought to have been forwarded to the High Court to report the compliance of the directions issued in Ex.P.8. The non-compliance of the above would only go to show that the order in Ex.P.12 was prepared later and antedated and the enquiry officer, after analysing the evidences, held the charges as proved, which resulted in the impugned punishment, which is perfectly justified and needs no interference.

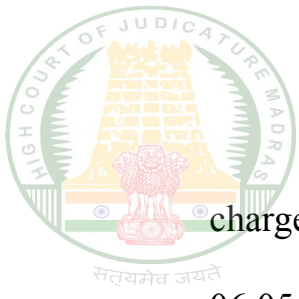
15. Heard the rival submissions of the respective counsels and perused the materials placed on record.

16. S.Gomathi / P.W.1 had originally filed a complaint against her husband in D.V.C.No.107 of 2016 before the learned Judicial Magistrate, Additional Mahila Court, Tiruchirappalli, under the provisions of the D.V.Act. By order dated 29.12.2016, maintenance was ordered in favour of P.W.1 and her two children. Petition was filed in CrI.M.P.No.1606 of 2017 for execution of the order dated 29.12.2016 and the same was allowed on 07.08.2017.



17. In the appeal preferred by P.W.1's husband in CrI.A.No.15 of 2017, the Principal District and Sessions Court, Tiruchirappalli, by order dated 16.08.2017, had partly allowed the appeal and restricted the payment of maintenance only from the date of the order and not from the date of petition. However, in the revision preferred by P.W.1 before this Court in CrI.R.C.(MD)No.815 of 2017, this Court, by order dated 27.03.2018, set aside the orders of the appellate court and restored the order in D.V.C. No.107 of 2016 dated 29.12.2016.

18. Pursuant to which, again Petition in CrI.M.P.No.3376 of 2018 was filed to execute the order dated 29.12.2016. However P.W.1's husband had filed a petition in CrI.M.P.No.588 of 2019 to dismiss the Execution Petition. This prompted P.W.1 to approach this Court in CrI.O.P.(MD) No.3434 of 2019, for a direction to the trial Court to dispose of the Execution Petition. This Court, by order dated 06.03.2019, disposed of the O.P. by directing the learned Judicial Magistrate, Additional Mahila Court, Tiruchirappalli, to dispose of the Execution Petition within two months from the date of receipt of the order.



19. At this juncture, the petitioner got transferred and he took charge as Judicial Magistrate, Additional Mahila Court, Tiruchirappalli, on 06.05.2019. The Execution Petition was listed for hearing on 13.05.2019 and the delinquent/petitioner had passed the following docket order:-

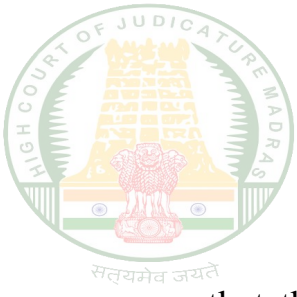
“Both present and Crl.M.P.558/2019 is pending. As per the directions of the Hon'ble Madurai Bench of Madras High Court, Madurai this case will be tried in day to day manner. Hence, for perusal of entire records, call on 14.05.2019.”

20. The order dated 13.05.2019 passed by the delinquent makes it abundantly clear that the delinquent was aware of the directions issued by this Court. It further reveals that the order of this Court dated 06.03.2019 has been received by the Court on 11.04.2019 and therefore, two months time granted by this Court to dispose of the Execution Petition will expire on 13.06.2019. In fact, in view of the same, the delinquent had directed that the case be tried in a day-to-day manner. Thereafter, the case was listed for hearings regularly and on 31.05.2019, the delinquent had passed the docket order as *“trace the bundle in D.V.C. No.107 of 2016 and call on 06.06.2019”*.



21. However, the case has not been listed on 06.06.2019. The delinquent, who had the knowledge of the directions of this Court and being aware that the time granted would expire on 13.06.2019, did not take any steps to comply with the directions issued. Even though the delinquent was having sufficient opportunity to have approached this Court seeking for an extension of time explaining the delay and the circumstances for not disposing of the Execution Petition, he did not choose to avail the same.

22. Admittedly, neither the delinquent disposed of the Execution Petition nor sought for any extension of time and thereby had not complied with the directions issued by this Court. In this regard, there are circulars issued by this Court dated 17.06.1985 and also circular dated 23.01.2009 wherein directions have been issued to all the Courts in the District Judiciary that whenever directions are issued by the High Court, the proceedings should be disposed of within the time fixed by the High Court and the fact shall be reported to the High Court immediately on such disposal and in case of any difficulty in compliance, a request has to be made for an extension of time well in advance, stating the reasons therefor. The delinquent did not choose to adhere to these circulars, which were simply given a go-by.



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23. Thereafter, a docket entry was made on 02.08.2019 endorsing that the main DVC bundle had been traced. Subsequently, the Execution Petition was listed for hearing and arguments were heard on 12.09.2019 and reserved for orders on 18.09.2019. As no orders were passed, for nearly 8 months from 18.09.2019, the complainant / P.W.1 had sent a complaint to the High Court in Ex.P.1 on 27.05.2020, wherein she had narrated that even though she had gone to the Court in the months of October, November, December 2019 and January 2020 and mentioned before the court, the orders had not been passed and therefore, she had sent the complaint.

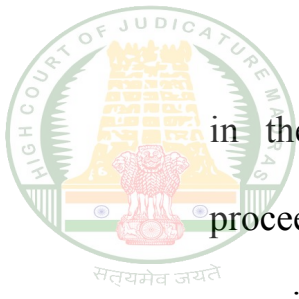
24. At this stage, the order dated 18.09.2019/ Ex.P.12 passed in the Execution Petition by the delinquent came on record. Immediately the advocate of the complainant had sent a mail on 29.06.2020 in Ex.P.3 stating that no such order was passed on 18.09.2019 and also no such entry was made in A-diary. The learned Principal District Judge, Trichirappalli, to whom the complaints were forwarded by the 1st respondent, had conducted a preliminary enquiry and submitted his report on 04.07.2020 in Ex.P.4.



25. The learned Principal District Judge had recorded that the delinquent had delayed the production of the records for nearly 3 days and further, on comparison of the records found that though the docket entries are made for hearings on 04.09.2019, 09.09.2019, 12.09.2019 and 18.09.2019, the corresponding entries are not found in the A-diary.

26. Pursuant to the report in Ex.P.4, the charge memo came to be issued, framing the aforesaid charge. As the explanation of the delinquent was not satisfactory, the enquiry officer was appointed. In the enquiry, the docket sheet in the Execution Petition was marked as Ex.P.9 and A-diary entries from 12.09.2019 to 30.09.2019 were marked as Ex.P.10 and A-diary entries from 13.08.2019 to 11.11.2019 were marked as Ex.P.11. Further, the despatch register from 04.06.2019 to 11.11.2019 was marked as Ex.P.13. The order dated 18.09.2019 was marked as Ex.P.12.

27. Even though the Execution Petition was posted for hearings on 04.09.2019, 09.09.2019, 12.09.2019, and 18.09.2019, which are entered in Ex.P.9, there is no corresponding entry in respect of the hearing in A-diary in Ex.P.10 and Ex.P.11. The non listing of the case on the hearing dates and the docket orders made on different dates without any corresponding entry



in the A-dairy shows that there were irregular and truncated court proceedings. The delinquent also failed to discharge his mandatory duty in ensuring the A-diary and the other court records are in order, in view of the fact that except for 7 days, the delinquent had not signed the A-diary for the other days between 12.09.2019 and 11.11.2019.

28. The maintaining of A-dairy is not an empty formality and it serves its own purpose. Only to have checks at different levels so that the court proceedings are not truncated, as the fate of several litigations of the litigant public is based on the court proceedings. Further the litigants and the advocates will know the proceedings of the court recorded and the adjourned dates only from this register. The action of the delinquent in also not signing the A-dairy continuously for a long period only reflects dereliction of duty and insubordination.

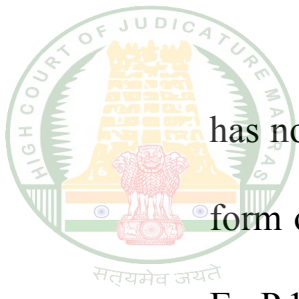
29. From the despatch register filed in Ex.P.13, it has also been established that no orders in Ex.P.12 has been despatched from the court within the period from 04.06.2019 to 11.11.2019 either to the jurisdictional police station or for reporting compliance to the High Court. When it was mandatory on the part of the delinquent to forward a copy of the order to the



jurisdictional Police Station under 20(4) of the D.V. Act, the despatch register in Ex.P.13 confirms that the same has not been forwarded and there had been a failure in complying with the mandatory provision. In this regard, if Ex.P.12 was delivered on 18.09.2019 and not forwarded, then the delinquent had not taken any proceedings as against P.W.3 and P.W.5, which all goes to show that the order in Ex.P.12 was not delivered on 18.09.2019.

30. P.W.1 and P.W.2 had clearly stated that they had been mentioning it before the Court from October 2019 to May 2020, till the complaint in Ex.P.1 was sent. P.W.3, the Head Clerk had made it clear that no such order in Ex.P.12 was handed over to him and therefore, the same was not forwarded to the jurisdictional Police Station or the compliance has been reported to the High Court. P.W.4 had denied that the order in Ex.P.12 was typed in the laptop and further, she had deposed that the details of the order typed and the date will always be available in the hard disk, which can be easily ascertained.

31. As rightly pointed out by the learned Counsel for the first respondent, when the order in Ex.P.12 reads that the same was dictated by the delinquent and typed in the laptop of the delinquent, then the delinquent



has not chosen to come forward with the evidence available with him in the form of hard disk, which would have made it clear as to when the order in Ex.P.12 was typed. The fact that the delinquent has not chosen to put forth the best evidence available to support his case, would only go to show that either no such order was typed in the laptop or the hard disk, if produced, would reveal that the order had been typed at a later date and therefore, this Court has to presume that the order in Ex.P.12 was not typed and delivered on 18.09.2019, by drawing adverse inference as per Section 114(g) of the Indian Evidence Act, 1872. Moreover, if the order in Ex.P.12 had been delivered on 18.09.2019 itself, which is in favour of the complainant, then absolutely there was no necessity for the complainant to prefer a complaint against the delinquent nearly after 8 months in May 2020.

32. The enquiry officer had considered all the evidences available and had come to the conclusion that the charge against the delinquent as proved. The enquiry officer by analysing the evidences of P.W.1 to P.W.5, corroborated by exhibits P.1, P.8 to P.13, had arrived at a finding that the delinquent had not actually delivered the order in Ex.P.12 till the complaint.



33. From the evidence of P.W.4 and P.W.5 coupled with Ex.P.9 and Ex.P.10, the enquiry officer had arrived at a finding that the proceedings in the court are truncated and the entire proceedings in the court of the delinquent were not in order. The enquiry officer had only incidentally taken note of the conduct of the delinquent even when the preliminary enquiry was conducted by the learned District Judge, where the delinquent had delayed the submission of the records by at least 3 days. As such by taking the cumulative analysis of the evidences, had arrived at a finding that the order in Ex.P.12 has been passed later and antedated with a deliberate intention to escape from the misrepresentation, insubordination and dereliction of duty.

34. Based on the detailed enquiry report, the delinquent has been afforded with further opportunity by issuance of a second show cause notice and the reply was received and considered. The disciplinary authority had concurred with the findings of the enquiry officer and had imposed a punishment of dismissal from service.

35. This Court while exercising the power of judicial review under Article 226 of the Constitution of India, does not sit in appeal over the



decision arrived at by the disciplinary authority. Reappraisal of evidence is impermissible and this Court reviews only the manner in which the decision has been arrived at and not the decision itself. In the domestic enquiry, strict rules of evidence do not apply and proof is only based on preponderance of probabilities. If there is some evidence available in respect of the delinquency committed by the delinquent, then it is sufficient to hold the charge as proved.

36. In the instant case, the delinquent has been afforded with reasonable opportunities and the disciplinary proceedings have been conducted in a fair manner. When once the enquiry is found to be fair and proper, then it is within the domain of the disciplinary authority to decide on the appropriate punishment to be imposed. This Court cannot substitute its view with the decision arrived at by the disciplinary authority.

37. It only leads to the next stage to see as to whether the punishment imposed is proportionate to the charges or too harsh that shocks the conscience of this court. The delinquent was serving as judicial officer who is entrusted with the judicial and administrative work of the court concerned. In spite of the knowledge of the directions issued by this Court,



the delinquent has wilfully chosen to ignore the same and has neither complied with nor sought for any extension of time. The delinquent who was in charge of and having the mandatory duty to ensure the A-register and court records are in order has failed in his duty, as he has not even signed the A-dairy for nearly two months and the fact that the docket orders contained in the Execution Petition are not reflected in the A-register, would all go to show that the entire proceedings in the court of the delinquent was not in order and the court proceedings were truncated. The order in Ex.P.12 has been delivered at a later date after complaint in Ex.P1, but has been antedated and manipulated.

38. In view of such serious misconduct of the delinquent, the faith, trust and confidence of the public over the courts will be eroded and the rights of the litigant public will be greatly affected. Any officer of the court, particularly the judicial officers discharging the judicial duties must hold impeccable character, honesty and integrity to uphold the majesty of the court proceedings and the trust of the public. The action and conduct of the delinquent prior to and post the complaint, ignoring the directions of this court and further going to the extent of manipulating / antedating the order reflects his mind, which cannot be condoned and countenanced at least in



Judicial service. When the delinquent was entrusted with the duties which has to be carried out with great devotion and integrity, he had not carried out the duties properly and his actions are definitely prejudicial to the court proceedings and the interest of the litigants.

39. In such circumstances, in our considered opinion the punishment of removal from service is definitely proportionate to the proved charges against the delinquent. We find no error or infirmity in the orders passed by the disciplinary authority.

40. Accordingly, the impugned order is confirmed and this Writ Petition stands *dismissed*. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

(R.S.M., J.) (G.A.M., J.)
25.04.2025

Speaking order
Index : Yes
Neutral Citation : Yes

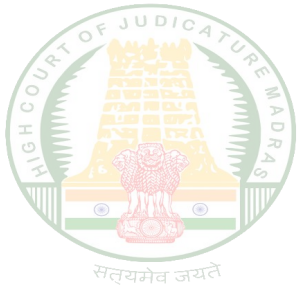
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To

1. The Registrar General,
High Court of Madras,
High Court Buildings,
Chennai - 600 104.

2. The Additional Chief Secretary,
Government of Tamil Nadu,
Home (Courts-I) Department,
Secretariat, Chennai - 600 009.



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W.P.No.33564 of 2024



R.SUBRAMANIAN, J.
and
G.ARUL MURUGAN, J.

sri

Pre-Delivery Order made in
W.P.No.33564 of 2024
& W.M.P.No.36348 of 2024

25.04.2025