

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 07.06.2017**

**CORAM**

**THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN**

**CrI.O.P No.13295 of 2011  
and  
M.P.No.1 of 2011**

1.Arunprakash

2.Prakash Babu

3.V.Ethiraj

4.A.A.Venkatarayalu

5.C.Poovan

... Petitioners

vs.

Inbasekaran

... Respondent

**Prayer:** Criminal Original Petitions filed under Section 482 of Cr.P.C., to call for the records and quash the proceedings in C.C.No.7085 of 2005 on the file of the Judicial Magistrate No.1, Kancheepuram.

For Petitioners : Mr.G.K.Sekar

For Respondent : No Appearance

**JUDGMENT**

The petitioners have filed this Criminal Original Petition to call for the records and quash the proceedings in C.C.No.7085 of 2005 on the file

of the Judicial Magistrate No.1, Kancheepuram.

2.It is the case of the petitioners that the respondent herein as complainant filed a private complaint under Section 200 Cr.P.C against the petitioners herein in C.C.No.7085 of 2005, before the Learned Judicial Magistrate No.1, Kanchipuram to take an action under Section 101 of Hindu Religious and Charitable Endowments Act (herein after called as H.R and C.E Act). According to the petitioners, the Assistant Commissioner of H.R. and C.E. has appointed the following persons namely 1.Mrs.Meenakshi, 2.E.Nagarajan, 3.A.Mari and 4.R.Gopal Chettiyar as trustees of Alagiya Singaperumal Kovil, Kanchipuram. As per the said appointment, the above said persons are entitled to hold office of trustees for 3 years i.e. up to 09.02.2008. The said Alagiya Singaperumal Kovil, temple belongs to Padhmasaliyar community. Being so, a private complaint in C.C.No.7085 of 2005 came to be filed as though the petitioners were disturbing the possession of the respondent herein. The present complaint was filed by the respondent herein praying to take action against the petitioners as per Section 101 of H.R and C.E Act.

3.The above said complaint preferred against the petitioners is not maintainable either in Law or in facts. The complaint is not at all maintainable and no action can be initiated under Section 101 of H.R. and C.E. Act, since there was a serious material irregularity committed by the H.R. and C.E. Commissioner that he failed to issue a notice to all the

interested parties, servants, trustees and failed to hear the objections put forth by the parties with regard to issuance of certificate on the appointment of a trustee.

4. In the case on hand no such procedure was followed. That apart the appointment of the respondent as trustee for a period of 3 years was on 02.06.2005 and his tenure was over by 22.06.2008 itself and therefore the pendency of the above criminal case against the petitioners has become infructuous. Hence the above complaint is liable to be quashed on that ground itself.

5. Further it was contended that the appointment of trustees itself is under in question before the Joint Commissioner of H.R. & C.E., at Vellore in O.A.No.13 of 2005. In the said OA there is no final order passed till date, whereas in the mean time a fit person was appointed on 06.07.2007. The above said factual background would reveal that the petitioner neither acted as a trustee nor can seek any relief under Section 101 of H.R. and C.E. Act. The complaint on hand is utter false and motivated one, hence the petitioners is before this Court invoking Section 482 of Cr.P.C to quash the above complaint.

6. I heard Mr.G.K.Sekar, learned counsel appearing for the petitioners and there is no representation on behalf of the respondent and

perused the entire records.

7. On careful perusal of the records, it is revealed that the very appointment of trustees to the above temple is under peril and the same remains sub-judice before the Joint Commissioner, H.R. and C.E., Vellore in O.A.No.13 of 2005 for adjudication. In the said circumstance the above complaint lodged by the respondent in a capacity claiming to be the trustee is unsustainable and unacceptable.

8. Moreover the tenure of the alleged appointment of the respondent has also expired long back by the year 2008 itself, whereas the records disclose that in the interregnum period on 06.07.2007, on taking into account of the dispute prevailed over the appointment of the trustees, the Joint Commissioner H.R. and C.E., Vellore has chose to appoint a fit person vide this order dated 06.07.2007.

9. That apart admittedly the petitioners, who were claimed to be the former trustees by the respondent/ complainant itself were not found issued with any notice with regard to issuance of certificate under Section 101 of H.R. and C.E. Act, which is mandatory on the part of Commissioner to issue such notice as contemplated under Section 101 of H.R. and C.E.

10.In view of the fore going reasons and the facts involved in the case, this Court is of the opinion that the complaint on hand if allowed to be proceeded would be nothing but futile exercise and abuse of process of Law.

11.In result, the Criminal Original Petition is allowed and the proceeding in C.C.No.7085 of 2005, on the file of the Judicial Magistrate No.1, Kancheepuram is hereby quashed. Consequently, connected miscellaneous petition is closed.

**07.06.2017**

Note:Issue order copy on 11.09.2017

Internet : Yes

Index : Yes

vs

To

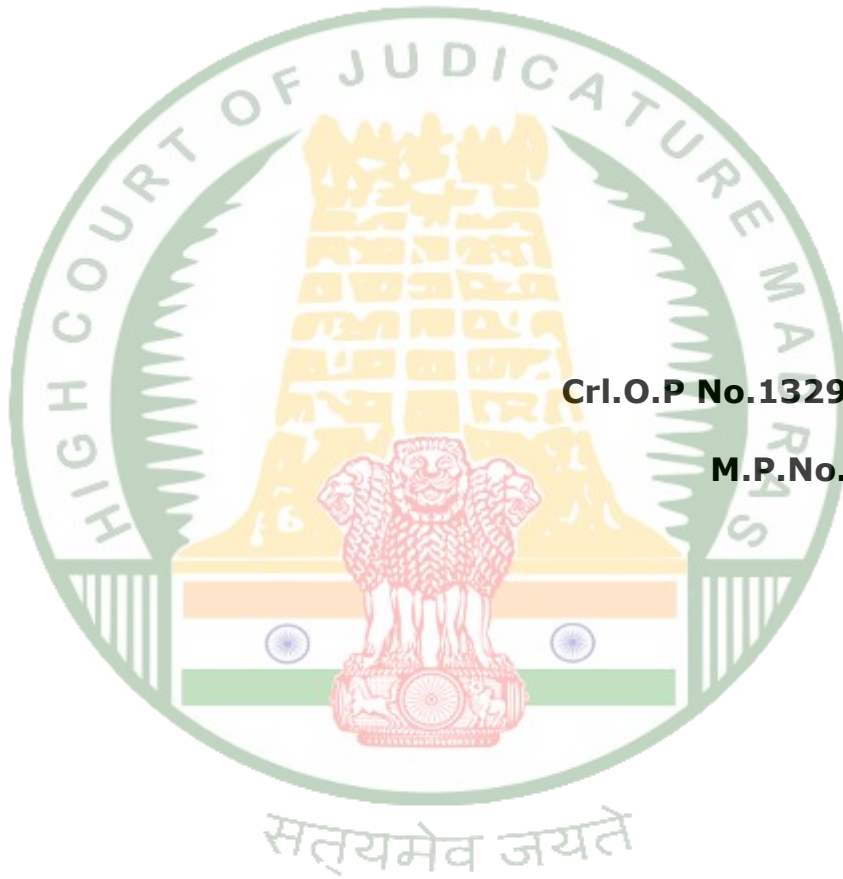
The  
Judicial Magistrate No.1, Kancheepuram

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**M.V.MURALIDARAN,J.**

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