

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2017

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.31229 of 2013

K.S.Sivasankaran

... Petitioner

vs.

The Joint Commissioner (Additional Charge),
Hindu Religious & Charitable Endowment Department,
Vellore - 9.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari, calling for the records pertaining to the respondent's proceedings vide Proc.Na.Ka.No.8066/2013/E1, dated 31.10.2013 and quash the same.

For Petitioner : K.Anbarasan

For Respondent : Mr.M.Maharaja,
Special Government Pleader (HR & CE)

O R D E R

The petitioner has come up with this Writ Petition seeking to quash the proceedings dated 31.10.2013 passed by the respondent vide Proc.Na.Ka.No.8066/2013/E1.

2. According to the petitioner, he is functioning as one of the Hereditary Trustees of Arulmighu Sampangi Pichandeswarar Temple situated at Arni Village, Ponneri Taluk from the year 2011, along with the other Trustees, without any adverse remarks. While so, the respondent herein forwarded a letter dated 03.10.2013 to the petitioner to attend an enquiry with records pertaining to the properties of the Temple in connection with S.Nos.861/15 and 861 A/1, respectively. In this regard, the respondent again forwarded a letter dated 11.10.2013 to the petitioner, after specifically mentioning the names of the parties involved in the said transaction.

3. The petitioner submitted an explanation to the same on 12.10.2013 and 14.10.2013 by stating the reason that the said property was brought into public action after getting necessary approval from the Commissioner, H.R. & C.E., Chennai. After conducting auction, the same was duly informed to the

Commissioner, who, in turn approved and issued an appropriate order on 25.01.1974 vide his proceedings in Na.Ka.No.75239/73/C1, dated 25.01.1974. The grievance of the petitioner is that some miscreants unauthorizedly trespassed and occupied the property in question and in that connection, the then Trustee of the Temple obtained permission from the Commissioner and initiated a Civil Suit, which is pending. It is the case of the petitioner that all the transactions and the amount received from the auction of the property in question were brought into the Accounts of the Temple and subjected to audit.

4. Learned counsel for the petitioner submitted that without issuing a show cause notice and without giving an opportunity of hearing to the petitioner, the respondent has proceeded with the impugned order against him, which is in violation of the principles of natural justice.

5. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondent and perused the material documents available on record.

6. Admittedly, against the impugned order, the petitioner has got a right of appeal and the same has been referred to in the impugned order. The Appellate Authority has got powers to pass an interim order. However, the petitioner has stated that without giving an opportunity of hearing to him, the impugned order has been passed, which is in violation of the principles of natural justice and that he has no effective alternative remedy. The said contention of the petitioner that there is no effective alternative remedy is not correct and the Appellate Authority is empowered to grant an interim order in terms of the provisions of the H.R. & C.E. Act.

7. Hence, taking note of the submissions of both the parties, this Court is not inclined to grant the relief sought by the petitioner in view of the effective alternative remedy available to him. It is open to the petitioner to file an appeal against the impugned order within a period of 15 days from the date of receipt of a copy of this order, including the petition for interim relief, if so advised, and the Appellate Authority is directed to take up the matter and decide the same within a period of one month thereafter, after giving an opportunity of hearing to all the parties.

With the above direction and observation, this Writ Petition is disposed of. No costs. Consequently, connected M.P.No.1 of 2013 is closed.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

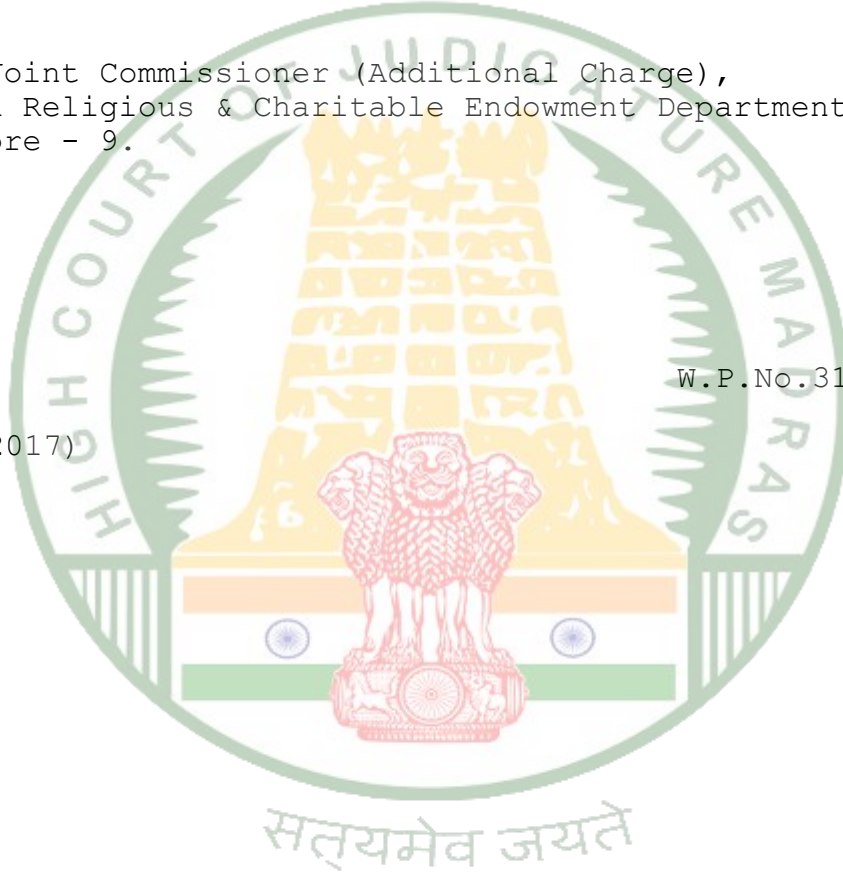
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To:

The Joint Commissioner (Additional Charge),
Hindu Religious & Charitable Endowment Department,
Vellore - 9.

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SP(24/08/2017)



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