



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 22.02.2017

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P(MD)No.3081 of 2017

and

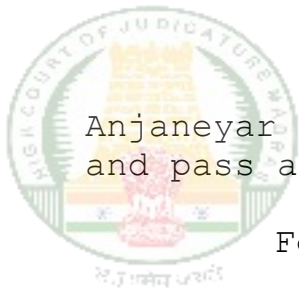
W.M.P(MD)No.2455 of 2017

1. N.Ramaswamy Pillai,
Managing Trustee,
Sree Ram Anjaneyar Bhaktharkal Trust,
Reg.No.267/2006,
13/73, Sannathi Street,
Suchindrum Post, Kanyakumari District.
2. S.Bagavathiyappan,
S/o, Subbiah Pillai,
Secretary,
Sree Ram Anjaneyar Bhaktharkal Trust,
Having residence at 19/21, South Car Street,
Suchindrum-629704.
3. S.Nellaiyappan ..Petitioners

Vs

1. The Joint Commissioner/Executive Officer,
Tamilnadu Hindu Religious and Charitable Endowment Board,
Kanyakumari District Temples,
Head Office, Suchindrum,
Kanyakumari District.
2. The Manager,
Arulmigu Thanumalaiyaswamy Thirukovil,
Suchindrum,
Kanyakumari Incorporated & Unincorporated
Devaswom Board,
Kanyakumari District. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records of the impugned notice issued by the 1st respondent in the proceedings in Na.Ka.No.5590/2010/D1 dated 31.01.2017 and quash the same as illegal and without jurisdiction and further direct the 1st respondent herein not to interfere in the affairs of Sree Ram



Anjaneyar Bhaktharkal Trust, Suchindrum, Kanyakumari District and pass any such further orders as this Hon'ble Court.

For Petitioner : Mr.M.Vallinayagam,
Senior Counsel for
Mr.D.Nallathambi

For Respondents : Mr.M.Saravanan

ORDER

Mr.M.Saravanan, the learned counsel takes notice for R-1 and R-2.

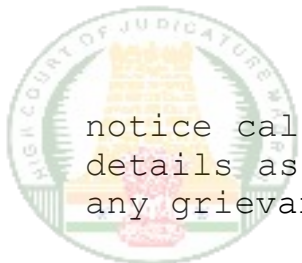
2. By consent of parties, the main Writ Petition itself is taken up for final disposal.

3. The petitioners are the Officer Bearers of Sree Ram Anjaneyar Bhaktharkal Trust, Suchindrum, Kanyakumari District. They are aggrieved against the impugned proceedings issued by the first respondent, dated 31.01.2017, wherein the petitioner- Trust was called upon to furnish the Account Books, Ledgers, Bank Account Passbooks, Property Registers and Title Deeds within fifteen days, by making an allegation as though the petitioner-Trust has collected and is collecting donations/funds from the public in the name of the temple and under the guise of doing some religious activities at the temple called Arulmigu Thanumalayaswamy Thirukovil, Suchindrum, which is under the control of the Tamil Nadu Hindu Religious and Charitable Endowment Board. The issuance of the impugned proceedings is to the effect that the petitioner-Trust is indulging in collecting the funds in the name of the Trust, however, for doing some religious activities at the temple, which according to the respondents is not permissible.

4. Mr.M.Vallinayagam, the learned senior counsel appearing for the petitioners submitted that the petitioner-Trust is a private Trust and all the collections made by the Trust from the public is properly accounted and audited and there is no collection of donations/subscription of any amount for the so-called religious purpose attached with the temple. The learned senior counsel also submitted that the petitioners are not collecting any donation or fund from the public in the name of the temple. Therefore, he submitted that the respondents are not having jurisdiction to issue the impugned proceedings against the petitioner-Trust apart from the fact that even on merits, the allegations made in the impugned proceedings are factually incorrect.

<https://hcservices.ecourts.gov.in/hcservices/>

5. Per contra, the learned counsel appearing for the respondents submitted that the impugned proceedings is only a



notice calling upon the petitioners to furnish those documents and details as stated supra and therefore, the petitioners cannot have any grievance.

6. To the above said submissions made by the learned counsel for the respondents, the learned senior counsel appearing for the petitioner pointed out that if it is a simple show-cause notice, the petitioner would not be having any grievance and on the other hand, since a specific finding is given in the impugned proceedings as though the petitioners have collected donations from the public in the name of the temple the petitioner has approached this Court. Therefore, he contended that such finding or observations made in the impugned proceedings without affording an opportunity of hearing to the petitioner, cannot be sustained.

7. Heard the learned senior counsel appearing for the petitioners and the learned counsel appearing for the respondents and perused the materials placed before this Court.

8. A careful perusal of the impugned proceedings would show that even though it is styled as a notice, certain observations or findings rendered therein are certainly against the interest of the petitioners. Needless to say that if such findings or observations are made without affording an opportunity of hearing to the petitioners, the same would be in violation of principles of natural justice. But, at the same time, it is to be noted that any observation or finding referred to in a show-cause notice is not a final conclusion and on the other hand, it has to be construed as the prima facie view of the authority who issued such notice. Hence, the petitioners are to satisfy the authorities that the allegations made even by way of finding in the impugned proceedings are erroneous or baseless, by producing the relevant materials before the respondents. It is open to the petitioners to question the jurisdiction of the respondents as well while making their objections before the respondents. Accordingly, the writ petition is disposed of with the following directions:

(A) The respondents are directed to treat the impugned proceedings as a show-cause notice issued to the petitioners.

(B) Any findings rendered or observations made in the impugned proceedings shall be treated as a prima facie view of the respondents against the petitioners.

(C) The petitioners shall file their objections with relevant supportive materials within a period of two weeks from the date of receipt of a copy of this order and on receipt of such objections, the respondents shall consider those objections and pass orders on merits and in accordance with law, also after giving due opportunity of personal hearing to the petitioners.



(D) Such exercise shall be done by the first respondent within a period of four weeks from the date of receipt of a copy of such objections.

No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

/True copy/

Sub Assistant Registrar

To

1. The Joint Commissioner/Executive Engineer,
Tamilnadu Hindu Religious and Charitable Endowment Board,
Kanyakumari District Temples,
Head Office, Suchindrum, Kanyakumari District.
2. The Manager,
Arulmigu Thanumalaiyaswamy Thirukovil,
Suchindrum,
Kanyakumari Incorporated & Unincorporated Devaswom Board,
Kanyakumari District.

+1 cc to M/S.M.Saravanan, Advocate in SR.No. 9953

+1 cc to M/S.D.Nallathambi, Advocate in SR.No. 9815

pm

CSL/SKN/09.03.2017 : 4P/5C

W.P(MD)No.3081 of 2017

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