

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 10.05.2018

CORAM

THE HONOURABLE MR.JUSTICE V. PARTHIBAN

AND

THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

W.A.No.1146 of 2018 and

CMP No.9186 of 2018

Palani Town Muslim Dharma Paripalana
Sangam Wakf,
represented by its Vice President,
Palani Town,
Dindigul District. ... Appellant/Petitioner

versus

1. The Principal Secretary to the Government,
Municipal Administration and Water Supply Department,
Government of Tamil Nadu,
Fort St.George,
Chennai.

2. Palani Municipality,
represented by its Commissioner,
Palani,
Dindigul District.

3. The Tamil Nadu Waqf Board,
represented by its Chief Executive Officer,
No.1, Jaffer Syrang Street,
Vallal Seethakanthi Nagar,
Chennai-600 001.

सत्यमेव जयते Respondents/Respondents

Prayer: This Writ Appeal is filed under Clause 15 of the Letter Patent, against the order the order of the learned single Judge of this Court passed in W.P.No.11658 of 2018 dated 3.5.2018.

WP.No.11658/2018:Issue a writ of certiorari calling for the records of the 1st respondent in G.O.(O) No.179 dated 19.04.2018 and quash the same.

For Appellant : Mr.S.V.Karthikeyan

For Respondents: Mr.E.Manoharan for R1

JUDGMENT

(Judgment of the Court was made by V.PARTHIBAN, J.)

This Writ Appeal has been directed against the order of the learned single Judge passed in W.P.No.11658 of 2018 dated 3.5.2018, in and by which, after taking note of the fact that the appellant had constructed shops 100 in number and running an unauthorized market and collecting rent and toll from the vehicles, the learned Judge was of the view that the first respondent has passed the reasoned order, which was impugned in the writ petition, need not be subjected to judicial review under Article 226 of the Constitution. While holding so, the learned Judge dismissed the writ petition.

2. It appears that earlier, the Palani Municipality had run a market in the premises situated T.S.No.50, Ward No.4, Subramanniyapuram Road, Palani, which was belonging to the Palani Town Muslim Dharma Paribabalana Sangam Waqf, by taking the same for lease for a period from 1982 to 2000 and after expiry of the lease, the Municipality earmarked a place and constructed municipal market and the vendors had also shifted their shops in the newly constructed market. Thereafter, the appellant sangam made a representation seeking permission to have a vegetable market in the same place vacated by the Municipality. By resolution No.257 dated 29.8.2002, the Palani Municipal Council, rejected the request of the appellant sangam. Aggrieved by the same, the appellant sangam preferred an appeal under Section 36 of the Tamil Nadu District Municipalities Act before the Government.

3. Be that as it may, it appears that the appellant sangam continued the market and leased out the nearly 100 shops and also collecting tollgate fee for the vehicles entering into market and that the appellant sangam is running the market for the past 17 years without permission. Further, the appellant sangam are not allowing the municipal staff to measure and inspect the premises for the purpose of assessing property tax and imposing licence fee, etc. Considering these facts, the first respondent, by order 19.04.2018 rejected the appeal. The said rejection order was put to challenge before the learned single Judge. After taking various materials placed before him, the learned Judge dismissed the Writ Petition, with the following observation.

"This writ petition challenging the order passed by the State rejecting the appeal preferred by the petitioner herein is in respect of unauthorised construction of shops and collecting toll from the vehicles entering the premises. A reasoned order has been passed

by the Principal Secretary to the Government on 19.04.2018. This order in appeal has been passed by the Government pursuant to the direction given by this Court in W.P.No.535 of 2004. From the impugned order, it could be seen that unauthorised market and shops nearly 100 in number had been constructed by the petitioner and they are collecting rent and toll from the vehicles.

2. After considering the merits of the case and the locus standi of the petitioner to collect rents and toll from the vehicles which enters the pilgrim city of Palani, the first respondent has passed a reasoned order which need not be subjected to judicial review under Article 226 of the Constitution of India. Hence, this writ petition stands dismissed. No costs. Consequently, the connected miscellaneous petitions are closed."

4. Having regard to the facts and circumstances as narrated above and the order passed by the learned single Judge, we do not find any infirmity in the impugned order and we do not find any merit in the writ appeal in order to entertain the same. Accordingly, the Writ Appeal fails and it is dismissed. No costs. Consequently, connected CMP is closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

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No.1, Jaffer Syrang Street,
Vallal Seethakanthi Nagar,
Chennai-600 001.

+1cc to Mr.S.V.Karthikeyan, Advocate Sr.No.41219
+1cc to Government Pleader SR.No.33575

CA(Co)
sm:2.7.2018

W.A.NO.1146 OF 2018



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