

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2018

C O R A M

THE HONOURABLE Mr.JUSTICE S.M.SUBRAMANIAM

W.P.No.17266 of 2014

and

M.P.No.1 of 2014

V.A.Mohammed Mansoor

...Petitioner

Vs.

The Executive Officer
Hindu Religious and Charitable Endowmen Board
Sri Thiyagaraja Thirukoil
Tiruvavarur.

...Respondent

Prayer Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari, to call for records from the respondent leading to pass the impugned notice dated 25.06.2014 and quash the same.

For Petitioner : Mr.T.V.Ramanujam-Senior Counsel
For M/s.C.Jagadish

For Respondent : Mr.M.Maharaja
Special Government Pleader [HR&CE]

O R D E R

The relief sought for in this writ petition is to call for records from the respondent leading to pass the impugned notice dated 25.06.2014 and quash the same.

2.The grievances of the writ petitioner is that in spite of the prompt payment of rents to the authorities the impugned notice has been issued by the respondent to stop the construction and by treating the petitioner as an encroacher.

3.The learned Senior Counsel appearing on behalf of the writ petitioner states that the writ petitioner is in lawful occupation and paying the rent promptly and punctually. There is no default on the part of the writ petitioner in respect of payment of rents. Therefore, the very content in the impugned notice is contrary in to the factual circumstances.

4.The learned Special Government Pleader appearing on behalf of the respondent states that the property in question belongs to the Kattalai and therefore, the authorities had issued the impugned notice in accordance with law and provisions of the Act. Thus, there is no infirmity.

5.However, this court is of an opinion that the present writ petition is filed challenging the notice issued to the writ petitioner. No writ can be entertained against the notice issued by a competent authority seeking explanations / objections from the persons in a routine manner. Judicial review against a show cause notice is certainly limited and on exceptional circumstances, the writ proceedings can be entertained if any Show Cause Notice is issued by an authority having no jurisdiction, incompetency or the allegations of malafides are raised. Even in case of raising allegation of malafides, the authorities against whom such an allegation is raised is to be impleaded as party respondent in the writ proceedings in his personal capacity. In the absence of any one of these legal cause, no writ can be entertained in a routine manner.

6.It is left open to the writ petitioner to submit his explanations/objections if any on the show cause notice to the authorities concerned and on receipt of such explanations/objections the authorities competent are at liberty to initiate appropriate action in the manner known to law. In respect of merits or otherwise has to be adjudicated by the competent authorities by providing all reasonable opportunities to the writ petitioner and parties, who all are connected with the issues.

7.In this view of the matter, no further adjudication in respect of the merits contended in the writ petition needs to be adjudicated at this point of time. All the issues raised in this writ petition are left open for adjudication by the competent authorities and the writ petitioner at liberty to submit his explanations and documents if any to the authorities responding to the impugned notice.

8.Accordingly, this writ petition stands dismissed. However, there is no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-V)

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Sub Assistant Registrar

may a

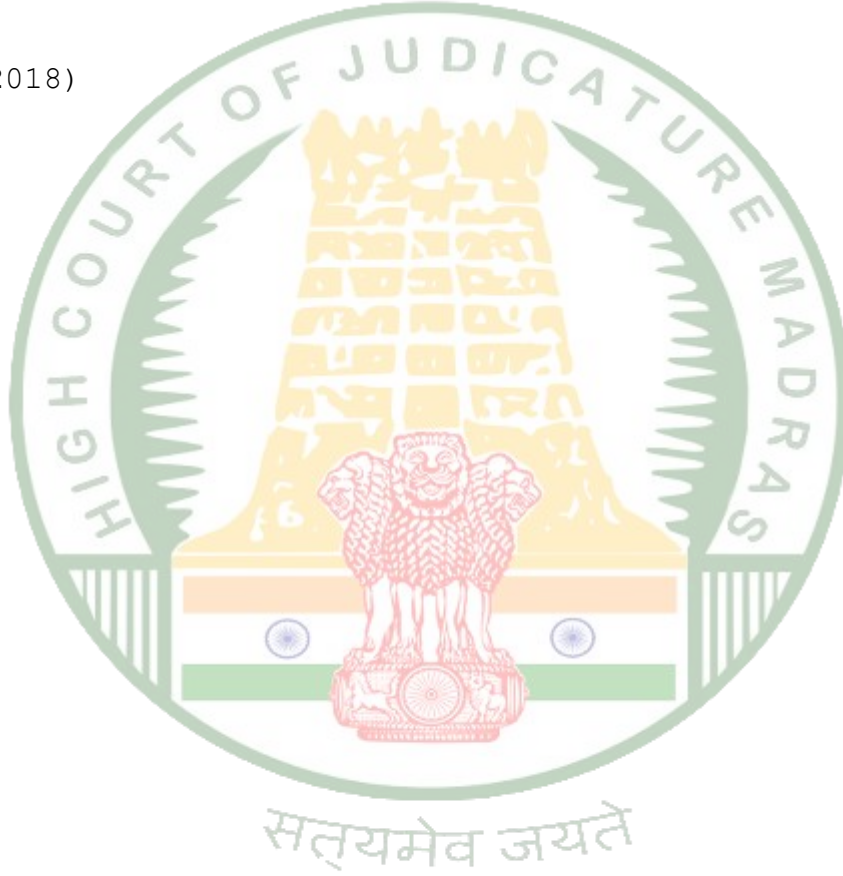
To

The Executive Officer
Hindu Religious and Charitable Endowmen Board
Sri Thiyagaraja Thirukoil
Tiruv arur.

+1cc to Mr.C.JAGADISH, Advocate, S.R.No. 30164

W.P.No.17266 of 2014

RSI (CO)
TR(14/05/2018)



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