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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Dated : 11.09.2018
CORAM
THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
AND
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

W.A.(MD)Nos.1230 & 1270 of 2018
and
C.M.P(MD)Nos.8598 & 8926 of 2018

W.A(MD)No.1230 of 2018:

K.Lakshmanan,
Trustee,
Kandanoor NATTAR Trust,
(Unregistered and Customary Trust),
Kandanoor Village,
Karaikudi Taluk,
Sivagangai District.
.. Appellant/9th Respondent

Vs.

1. A.R.Ramasamy
.. 1st respondent / writ petitioner
2. The District Collector,
Sivagangai District,
Sivagangai.

3. The Tahsildar,
Karaikudi Taluk,
Sivagangai District.

4. The Revenue Divisional Officer,
Devakottai,
Sivagangai District.

5. The Village Administrative Officer,
Kandanoor Village,
Karaikudi Taluk, Sivagangai District.

6. The Superintendent of Police,
Sivagangai District.

7. The Deputy Superintendent of Police,
Karaikudi Taluk,
Sivagangai District.

8. The Inspector of Police,
Sakkottai Police Station,
Sivagangai District.

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9. The Sub-Collector cum Nodal Officer,
   Devakottai Division Sub-Collector,
   Karaikudi Taluk,
   Sivagangai District. .. 2nd to 9th respondents /
   1st to 8th respondents

Prayer : Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order passed in W.P(MD)No.8314 of 2018 dated 17.04.2018 passed by this Court by allowing the writ appeal.

Prayer in WP(MD)NO. 8314 OF 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the respondents 1 to 8 herein to take immediate action against the 9th respondent for misappropriation of the funds of the Nattar Trust more fully by 8th respondents herein, and to appoint an Auditor to look into the accounts of the Nattar Trust and submit a report on the basis of petitioner's representation dated 05.03.2018.

For Appellant : Mr.K.Baalasundharam,
For R-2 to R-9 : Mrs.J.Padmavathi Devi,
Special Government Pleader

W.A(MD)No.1270 of 2018:

K.Lakshmanan,
Trustee,
Kandanoor NATTAR Trust,
Kandanoor Village,
Karaikudi Taluk,
Sivagangai District.

.. Appellant/4th Respondent

Vs.

1. The District Collector,
   Sivagangai District,
   Sivagangai.

2. The Tahsildar,
   Karaikudi Taluk,
   Sivagangai District.

3. The Revenue Divisional Officer,
   Devakottai,
   Sivagangai District. .. Respondents 1 to 3 /
   Respondents 1 to 3

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4.R.M.Chinnayya Ambalam .. 4th Respondent / Petitioner

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Prayer : Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 12.10.2017 passed in W.P(MD)No.19030 of 2017 and allow the writ appeal.

Prayer in WP(MD)NO. 19030 OF 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of mandamus directing the respondents 1 to 3 herein to take immediate action to remove the 4th respondent from the Trusteeship of the Kandanoor Nattar Trust and appoint a suitable person in his place on the basis of petitioner's representation dated 02.08.2017 within the time stipulated by this Honble court.

For Appellant : Mr.K.Baalasundharam,
For R-1 to R-3 : Mrs.J.Padmavathi Devi,
Special Government Pleader
For R-4 : No Appearance

COMMON JUDGMENT

[Judgment of the Court was delivered by
PUSHPA SATHYANARAYANA, J.]

These writ appeals have been filed challenging the orders passed by the learned single Judges dated 17.04.2018 and 12.10.2017 passed in W.P(MD)No.8314 of 2018 and W.P(MD)No.19030 of 2017 respectively.

2. We have heard the submissions made on either side and perused the materials placed before it.

3. It is seen that W.P(MD)Nos.19030 of 2017 has been filed by one R.M.Chinnayya Ambalam, for issuance of a writ of Mandamus, directing the official respondents therein to take immediate action to remove the fourth respondent/appellant herein, from the Trusteeship of the Kandanoor Nattar Trust and appoint a suitable person in his place on the basis of the petitioner's representation dated 02.08.2017, within a stipulated time.

4. Likewise, W.P(MD)No.8314 of 2018 has been filed by one A.R.Ramasamy, for issuance of a writ of Mandamus, directing the official respondents therein to take immediate action against the 9th respondent/appellant herein, for misappropriation of the funds of the Nattar Trust and to appoint an Auditor to look into the account of the Nattar Trust and submit a report on the basis of the petitioner's representation dated 05.03.2018.

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5. The said writ petitions were disposed of directing the respondents to consider the representation of the respective petitioners dated 02.08.2017 and 05.03.2018. Since the direction

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is sought only against the official respondents, the learned single Judges thought it fit not to issue notice to the writ appellant herein. The said orders are now under challenge in these writ appeals.

6. Admittedly, the relief sought for in the writ petitions itself is only for a Mandamus to consider the representations dated 02.08.2017 and 05.03.2018. As the relief sought for is only against the official respondents, they are directed to give appropriate notice to all the parties concerned before taking a decision. The learned Single Judges, had not decided anything on merits. Therefore, the writ appellant cannot be aggrieved.

7. However, the learned counsel appearing for the appellant raised an objection that even such Mandamus cannot be issued as the official respondents, who are arrayed as parties do not have authority to consider the nature of the representation given by the writ petitioners.

8. Be that as it may, the maintainability of representations and the relief sought for therein can be dealt with by the official respondents. If it is not within their jurisdiction, it is for the authorities to pass appropriate order. The writ appellants are also given liberty to raise all the objections including that of maintainability and authority of the official respondents on this issue.

9. With the above observations, the Writ petitions are disposed of and the order passed by the learned single Judge are confirmed by extending the time for the authorities to consider the said representations within a period of four weeks from the date of receipt of a copy of this judgment. No Costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar(CS-I)

To:

1. The District Collector,
   Sivagangai District,
   Sivagangai.

2. The Tahsildar,
   Karaikudi Taluk,
   Sivagangai District.

3. The Revenue Divisional Officer,
   Devakottai,
   Sivagangai District.

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4. The Village Administrative Officer,
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5. The Superintendent of Police,
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6. The Deputy Superintendent of Police,
   Karaikudi Taluk,
   Sivagangai District.

7. The Inspector of Police,
   Sakkottai Police Station,
   Sivagangai District.

8. The Sub-Collector cum Nodal Officer,
   Devakottai Division Sub-Collector,
   Karaikudi Taluk,
   Sivagangai District.

+1cc to Spl.Government Pleader Sr.No.84046
+1cc to Mr.K.Baalasundharam, Advocate Sr.No.83844

PM

VB/RP/SAR1/10.10.2018/5P/11C

Judgment made in
W.A(MD)Nos.1230 and 1270 of 2018
11.09.2018

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