



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Dated : 18.09.2018

CORAM

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THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
AND
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

W.A (MD) No.1284 of 2018
and
C.M.P (MD) No.9002 of 2018

M.Chelladurai

.. Appellant/Petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable
Endowment Department,
Nungambakkam,
Chennai - 34.

2.The Assistant Commissioner,
Hindu Religious and Charitable
Endowment Department,
Tirunelveli - 2.

3.The Inspector,
Hindu Religious and Charitable
Endowment Department,
Kadaiyanallur Circle,
Tirunelveli District.

4.K.Vallithevar

5.R.Paramasivathevar

6.R.Vengadesan

7.S.Madasamy

.. Respondents / Respondents

Prayer : Writ Appeal is filed under Clause 15 of the Letters Patent, to allow the writ appeal by setting aside the order dated 04.09.2018 made in W.P(MD)No.19172 of 2018.

Prayer in WP(MD)No. 19172/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari to call for the records on the file of the 2nd respondent vide proceedings Na.Ka.NO:6163/2015/E1, dated 16.08.2018 signed on 24.08.2018



For Appellant : Mr.Raja.Karthikeyan
For R-1 to R-3 : Mrs.J.Padmavathi Devi,
Special Government Pleader
For R-4 : Mr.R.J.Karthick

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JUDGMENT

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

This writ appeal is filed by the appellant / writ petitioner, challenging the order passed in W.P(MD)No.19172 of 2018, dated 04.09.2018, dismissing the challenge made to a show-cause notice issued to the appellant, by the Assistant Commissioner, HR & CE on delegation by the Joint Commissioner, HR & CE.

2. It is seen from the facts that the appellant claims to be the Hereditary Haqdhara of Arulmigu.Vadakuvaivelvi Amman Temple, Kodikurichi, Kadayaiyanallur Taluk, Tirunelveli District and no activities are happening in the temple including performing of poojas and festivals. Therefore, on complaint from the public, a show-cause notice was issued on 28.04.2018 calling upon the appellant to appear before the Assistant Commissioner on 03.09.2018.

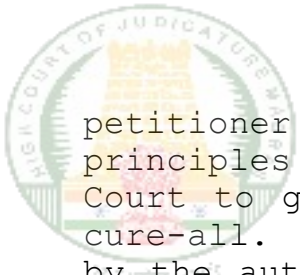
3. The appellant / writ petitioner has filed the writ petition, challenging the show-cause notice issued by the Assistant Commissioner, HR & CE, on the ground of jurisdiction.

4. The learned counsel appearing for the fourth respondent, who is a private respondent contended that the objection of the appellant cannot be sustained. There is a delegation of powers given to the Assistant Commissioner by the Joint Commissioner for issuance of such show-cause notice. Besides that, pursuant to the show-cause notice, the appellant appeared and sought for time to collect relevant documents in support of his case. Therefore, having acted upon the said show-cause notice, the appellant is estopped from challenging the same.

5. We have heard the submissions made on either side and perused the materials placed before us.

6. It is a settled principle that a show-cause notice cannot be challenged. But, a show-cause notice can be challenged only on the ground that the same is issued without jurisdiction.

7. But, in the present case, admittedly, there is a delegation of powers. It is only a show-cause notice and there is no order passed and there is no cause of action for the appellant / writ



petitioner to come to this Court. The allegation of violation of principles of natural justice alone cannot come in the way of this Court to grant any relief because natural justice alone is not a cure-all. It depends on the fairness with which any order is passed by the authorities. Admittedly, the enquiry is not yet completed. When the delegation of powers is already given to the Assistant Commissioner, the unnatural expansion of natural justice without reference to administrative realities in a given case can be exasperating. The proceedings of the HR & CE Department cannot be frustrated by challenging the show-cause notice. Therefore, the writ petition was rightly dismissed by the learned single Judge and there is no reason to interfere with the same. Any objection including that of jurisdiction, it is open to the appellant to raise before the appropriate authority during enquiry.

8. With the above observations, the writ appeal is disposed of. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar(CS-II)

To:

- 1.The Commissioner,
Hindu Religious and Charitable
Endowment Department, Nungambakkam,
Chennai - 34.
- 2.The Assistant Commissioner,
Hindu Religious and Charitable
Endowment Department, Tirunelveli - 2.
- 3.The Inspector,
Hindu Religious and Charitable
Endowment Department,
Kadaiyanallur Circle, Tirunelveli District.

+1CC to Mr.R.J.Karthick, Advocate, SR.No.84925
+1CC to Mr.Raja.Karthikeyan, Advocate, SR.No.84983
+1CC to the Special Government Pleader SR.No.85617

W.A(MD)No.1284 of 2018
18.09.2018

PM

ES/SKN/RSK/SAR 2/15.10.2018/3P/7C

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