



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:05.03.2021

CORAM

THE HONOURABLE MR.JUSTICE **V. PARTHIBAN**

WEB COPY

W.P (MD) No.4563 of 2021

and

W.M.P (MD) Nos.3660 and 3661 of 2021

V.Alagu Srivinasan

...Petitioner

Vs

1. The Sub Divisional Magistrate cum
Sub Collector,
Periyakulam,
Theni District.

2. N.Kamuthurai

... Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records pertaining to the impugned order passed by the first respondent in his proceedings in Na.Ka.No.683/2021/B1, dated 12.02.2021 and quash the same.

For Petitioner

: Mr.C.Jeganathan

For respondent

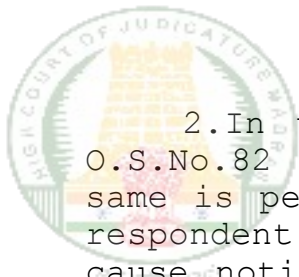
: Mr.M.Jeyakumar

Nos.1 and 2

Additional Government Pleader

ORDER

The case of the petitioner is that he is an ardent devotee of Sangili Annan Kovil situated in 348/2B situated at Seelayampatti village, Theni district. The temple is having 4 kumbu. Donations were received from various people and properties were purchased in the name of A.S.Nallalagu Pillai on behalf of the temple. The property was also transferred in the name of said A.S.Nallalagu Pillai and he died on 18.01.1996 after the death of the said A.S.Nallalagu Pillai, the second respondent has been maintaining the temple for some time. However, he appears to have misappropriated the temple funds and therefore, a trust was created namely Sangili Annan Temple Trust in order to run the temple administration. However, the second respondent started claiming as if he is the Secretary of the said temple and also started claiming all legal rights over the said temple.



2.In the above circumstances, the petitioner filed a suit in O.S.No.82 of 2019 before the District Munsif Court, Theni and the same is pending as on date. While the matter stood thus, the first respondent has passed a proceedings on 12.02.2021, which is a show cause notice directing the petitioner to appear for enquiry before him on the basis of the application submitted by the second respondent for cancellation of patta.

3.The principal grievance of the petitioner in this case is that the first respondent is not the authority to issue the proceedings in terms of Section 12 of the Tamil Nadu Patta Pass Book Act, since the original authority is only the Tahsildar. Therefore, the said show cause notice is issued without any authority and therefore, the same is liable to be interfered with.

4.The learned Counsel appearing for the petitioner would reiterate the above legal contention and submitted that the writ petition has been filed principally on the ground of jurisdiction issue among several other issues. However, this Court is not inclined to be persuaded on the said arguments.

5.Even assuming that the first respondent has no jurisdiction to issue the show cause notice, it is still open to the petitioner to raise the jurisdictional objection before him and in case the said contention is illegally and unjustifiably rejected, then the petitioner can have a recourse to workout his remedy in a manner known to law. However, it is not certainly open to the petitioner to rush to this Court and invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India on the pretext of challenging the jurisdiction of the first respondent in issuing show cause notice.

6.In matters of show cause notice, whatever be the legal or factual objection the parties must respond to the show cause notice and only when any order is passed there could be said to have a cause of action arisen and not before any order could be passed in pursuance of the show cause notice.

7.For the above stated reasons this Court does not think that the writ petition can be entertained at this stage and therefore, the same is dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



W.P(MD)No.4563 of 2021

The Sub Divisional Magistrate cum
Sub Collector,
Periyakulam,
Theni District.

+1 CC to M/s.SPL GP (SR-9471[F] dated 08/03/2021)

W.P (MD) No. 4563 of 2021

05.03.2021

VB (19.03.2021) 3P 3C