



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2022

CORAM

THE HONOURABLE MR. JUSTICE PARESH UPADHYAY
and
THE HONOURABLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

L.P.A.No.2 of 2022
and
C.M.P.No.1282 of 2022

D.Baskarapandian, I.A.S.,
District Collector,
Collectorate,
Ranipet District.

..Appellant/Respondent

Vs.

J.Janarthanan

..Respondent/Petitioner

Appeal filed under Clause 15 of the Letters Patent against the order dated 23.12.2021 in Contempt Petition No.1313 of 2021.

Prayer in Contempt Petition No.1313 of 2021: Hon'ble High Court may pleased to punish the Respondent for willful disobedience of the orders of the Hon'ble High Court made in W.P.No.3148 of 2020 dated 10.02.2020.

Prayer in WP.No.3148 of 2020 : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the Records of the Proceedings of the Third Respondent issued in Na.Ka.PA3/5490/2015 dated 17.09.2018 and quash the same with the consequential direction, directing the Respondents to consider the name of the Petitioner for Compassionate Ground Appointment as he has completed 18 years of age, based on his Educational Qualification.

For Appellant

.. Mr.K.V.Sajeev Kumar,
Spl. Govt. Pleader



JUDGMENT
(Delivered by PARESH UPADHYAY, J.)

1. This appeal is filed challenging the order dated 23 December 2021 recorded on Contempt Petition No. 1313 of 2021, which reads as under:

"Issue Statutory Notice to the respondent."

2. Learned Special Government Pleader for the appellant/ District Collector, Ranipet has submitted that the order passed by learned single Judge, in substance is the final order, so far prima facie view is taken against the present appellant, and therefore this appeal would be maintainable. It is further submitted that the appellant needs to be protected against the ordeal of facing contempt proceedings, which is instituted after counter was filed in response to the contempt petition filed by the original writ petitioner.

3. Learned Special Government Pleader for the appellant has relied on the decisions in (i)Midnapore Peoples' Co-op. Bank Ltd., and Others Vs. Chunilal Nanda and Others ((2006) 5 SCC 399), (ii)Tamil Nadu Mercantile Bank Shareholders Welfare Association (2) Vs. S.C.Sekar and Others ((2009) 2 SCC 784) and (iii) P.Vimal and Another Vs. M.Kannan and Others (2019 SCC Online Mad 30384) to contend that not only this appeal is maintainable, even on merits interference is required in the impugned order. It is submitted that this appeal be entertained and impugned order dated 23.12.2021 be interfered with.

4. Before the arguments of learned advocate for the appellant are considered, it is noted that, submission was made by the Registry before us on administrative side whether to treat this appeal as maintainable or not and whether it should be registered or not. It would not be fair to decide such issues sitting in Chambers. With a view to see that the appellant gets fair hearing, the appeal was ordered to be listed. That is how this appeal is notified for hearing today. The registration of this appeal being pursuant to the direction given by us in the above noted circumstances, this appeal need not be treated as having been registered by the Registry as its administrative function, treating it to be maintainable. It is under these circumstances, we have heard learned Special Government Pleader for the appellant both - on maintainability and on merits.

5. The issue before this Court is, whether the issuance of statutory notice vide order dated 23.12.2021 calls for any interference. For this purpose, it needs to be seen, whether this appeal needs to be entertained at all. Net result is, either on maintainability or on merits, if this appeal is not to be entertained, considering the fact that further



WEB COPY

proceedings before learned Single Judge would get obstructed, in the peculiar facts of the case, without going into the question of maintainability of this appeal, we have heard learned Special Government Pleader for the appellant on merits and have considered the same.

6. Without pronouncing anything on the points :- whether the impugned order quoted above can be said to be final judgment qua which appeal would be maintainable, and further whether the issuance of notice under the provisions of the Contempt of Courts Act would be appealable invoking Clause 15 of the Letters Patent Act, on merits we find that, when the original writ petitioner complained about non-compliance of the final order dated 10.02.2020 in W.P. No.3148 of 2020, the process undertaken by learned single Judge need not be interfered with, only on the issuance of statutory notice.

7. While recording as above, we also note that the learned Special Government Pleader has also submitted that, in response to the contempt petition, counter was also filed and after taking into consideration the contents of the said counter, statutory notice is issued and now, except to face the contempt proceedings there is no other option left to the appellant and therefore this appeal is filed. In this regard, we note that, expressing any opinion by us qua the defence of the appellant which is available to him in contempt proceedings, would only prejudice either of the parties and therefore the same need not be done. When learned single Judge has ordered issuance of statutory notice, the same, according to us, can not be said to be any error, much less an error apparent on the face of record, which may call for interference in this intra-court appeal.

8. While recording as above, we again clarify that, dismissal of this appeal is not on maintainability but is on merits. It is also clarified that, whether the appeal against such an order is maintainable or not, we have not given any final judgment and that issue may be addressed in an appropriate case, as and when required.

9. So far the decisions relied by learned advocate for the appellant are concerned, the same can be grouped under two heads. First on maintainability and the second on merits. Since this appeal is not disposed of as 'not maintainable' the first group of decisions need not be discussed. So far the authorities on merits are concerned, as noted above, the impugned order records only issuance of statutory notice and as held above, it can not be said to be error much less error apparent on the face of record. For this reason, those authorities would also not help the appellant. Dealing with those authorities will only add to the difficulties in the proceedings before learned Single Judge, which we do not intend to do.



10. With the above observations, this appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

WEB COPY

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

mmi/1

To

The District Collector,
Collectorate,
Ranipet District.

L.P.A.No.2 of 2022

SPD (CO)
PR (14/02/2022)