



W.A.No.2234 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 31.08.2023

CORAM

THE HONOURABLE Mr.JUSTICE R.MAHADEVAN
AND
THE HONOURABLE Mr.JUSTICE MOHAMMED SHAFFIQ

W.A.No.2234 of 2023
and
C.M.P.No.19383 of 2023

1.The District Registrar
Registration department,
District Registrar Office,
Vellappadi, Vellore 632 001.

2.The Deputy Inspection Cell Office,
Collectorate, Vellore 632 009.

.. Appellants

Vs.

1.S.Manikandan,
S/o. D.Selvaraj, Old No.22,
New No. 25, Palani Rathinavel Mudali Street,
Sainathapuram, Vellore, Tamil Nadu 632 001.

2.V.Kathirvelan,
S/o. Vaitheswaran, No. 31/118A,
Annai Therasa , 2nd Street, Phase 3,
Sathuvachari, Vellore, Tamil Nadu 632 009.

.. Respondents



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Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 17.08.2022 passed in W.M.P.No.20082 of 2022 in W.P.No.21065 of 2022 on the file of this Court.

For Appellants : Mr.Karthik Jaganathan
Government Advocate

For Respondents : Mr.V.Ragavachari, Senior Counsel
for Mrs.V.Srimathi

JUDGMENT

[Judgement of the Court was delivered by R.MAHADEVAN, J.]

This writ appeal has been filed by the appellants, challenging the interim order dated 17.08.2022 passed by the learned Judge in W.M.P.No.20082 of 2022 in W.P.No.21065 of 2022.

2. According to the appellants, based on the credible information, surprise inspection was conducted by the Vigilance and Anti-Corruption Department (V & AC) at the office of the Joint Registrar, Vellore, during the course of which, the Vigilance Officer seized unaccounted cash of Rs.3,55,860/- from the respondents and others. In this regard, a case in



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Crime No.16/2019 was registered against them, for the offence under section 7 of the Prevention of Corruption Act (Amendment) Act, 2018 r/w section 102 Cr.P.C. Following the same, the licensing authority issued show cause notices dated 29.11.2021 to the respondents by granting fifteen days time to give explanation to the charges framed against them. Assailing the show cause notices, the respondents filed WP.No.21065 of 2022 along with WMP.No.20082 of 2022 seeking an order of interim stay of all further proceedings, pursuant to the show cause notices. By order dated 17.08.2022, the learned Judge granted an order of interim stay of the impugned show cause notices. Aggrieved by the same, the appellants / Department preferred the present appeal.

3. The learned Government Advocate appearing for the appellants submitted that the grant of interim stay by the learned Judge, to the show cause notices issued by the licensing authority at the admission stage itself is illegal and contrary to law, as the stay of the entire action initiated under the Tamil Nadu Document Writer License Rules, 1982 at the preliminary stage, would affect the probity of public administration. It is also submitted



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that there is no illegality or infirmity in issuing the show cause notices to the respondents and hence, the same cannot be questioned by them. The learned counsel further submitted that instead of raising all the objections before the authority, who had issued show cause notices by submitting detailed explanation within a stipulated time, the respondents / writ petitioners hurriedly filed the writ petition, which cannot be maintainable. Without properly appreciating the same, the learned Judge erred in granting the order of interim stay to the said show cause notices, by the order impugned herein. Therefore, the learned counsel sought to set aside the interim order passed by the learned Judge and allow this appeal.

4. On the other hand, the learned senior counsel appearing for the respondents / writ petitioners submitted that considering the facts and circumstances of the case, the learned Judge has rightly granted an order of interim stay in favour of the respondents and hence, the same need not be interfered with by this court.

5. Heard both sides and perused the materials available on record.



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6. Before the writ court, the respondents challenged the show cause notices dated 29.11.2021 issued by the first respondent, on the premise that without even a complaint being referred, the authorities have initiated proceedings to cancel the license granted to the respondents, based on the alleged surprise inspection. The learned Judge has granted the interim order in favour of the respondents, at the time of admission itself, challenging which, the present appeal came to be filed by the appellants.

7. At the outset, this court is of the opinion that the writ appeal against interim order, is not maintainable. When there is no final order passed in the miscellaneous petition, it is open to the parties to approach the writ court for appropriate orders. The Hon'ble Supreme Court in *Midnapore Peoples Coop. Bank Ltd & others v. Chunilal Nanda and others in Civil Appeal No.1727 of 2002 dated 25.05.2006*, explained the scope of clause 15 of the Letters Patent and the relevant passage of the same is extracted below for ready reference:

"16. Interim orders/interlocutory orders passed during the pendency of a case, fall under one or the other of the following categories :

(i) Orders which finally decide a question or issue in controversy in the main case.



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(ii) Orders which finally decide an issue which materially and directly affects the final decision in the main case.

(iii) Orders which finally decide a collateral issue or question which is not the subject matter of the main case.

(iv) Routine orders which are passed to facilitate the progress of the case till its culmination in the final judgment.

(v) Orders which may cause some inconvenience or some prejudice to a party, but which do not finally determine the rights and obligations of the parties.

The term "judgment" occurring in clause 15 of the Letters Patent will take into its fold not only the judgments as defined in section 2(9) CPC and orders enumerated in Order 43 Rule 1 of CPC, but also other orders which, though may not finally and conclusively determine the rights of parties with regard to all or any matters in controversy, may have finality in regard to some collateral matter, which will affect the vital and valuable rights and obligations of the parties. Interlocutory orders which fall under categories (i) to (iii) above, are, therefore, "judgments" for the purpose of filing appeals under the Letters Patent. On the other hand, orders falling under categories (iv) and (v) are not judgments for purpose of filing appeals provided under the Letters Patent."

8. In this context, it may be relevant to refer to the decision of this court in *Southern Academy of Maritime Studies v. A.M.Akash and others* in W.A. No.1819 of 2019 dated 14.06.2019, wherein, after having referred to various judgments, it was held that the writ appeal against interim order should not be entertained and that, the appellant can move the writ court under Article 226(3) of the Constitution of India. The relevant paragraphs of the said decision, are reproduced below:

"11. The issue as to whether a writ appeal under clause 15 of the Letters Patent is maintainable as against an interim order granted in a writ petition, is no longer res integra. The same has been dealt with by a



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Hon'ble Division Bench of this Court and held that when an interim order is passed, an application under Article 226(3) of the Constitution of India, can be filed for vacating the said order and that appeal directly against such interim order should not be entertained. Reference can be made to the following decisions.

(i) In Anna University v. Narayanaguru International Institute of Science and Technology (Regd. Trust) and others in W.A.(MD) No.466 of 2015 dated 14.05.2015, after considering the earlier decisions of this Court, a Hon-ble Bench, held that a writ appeal as against an interim order, which has not attained finality, granted in a writ petition, is not maintainable.

(ii) A similar question came for consideration before another Hon'ble Division Bench of this court in R.Kannan v. Indcom Electronics Ltd., stating that the order impugned therein is not a judgment within the meaning of Clause 15 of Letters Patent of this court, a Hon-ble Division Bench, elaborately considered the matter, and held that the interim order made in the petition, which has not reached finality, determining the rights and liabilities between the parties cannot be said to have caused grave and substantial injustice to the appellant and will not fall within the meaning of the word "judgment" occurring in Clause 15 of the Letters Patent. Accordingly, the Hon'ble Division Bench held that writ appeal was not maintainable against an interim order.

(iii) In Dr.Chinnaraj Joseph Jeyakumar Joseph Jeyakumar v. The Governing Counsel of American College and others in W.A. No.540 of 2008, dated 02.08.2008, another Hon'ble Division Bench of this court held that ex parte interim orders are not judgments for an aggrieved person to invoke the jurisdiction of the Appellate Court, under clause 15 of the Letters Patent. Adopting the same legal principle, W.A. No.2347 of 2012, dated 05.12.2012, was disposed of by the Hon'ble First Bench giving liberty to the appellant therein to file application to vacate the interim order.

(iv) In Hindu Nadar Educational Trust, represented by its Managing Trustee and others vs. Hindu Nadar Uravinmurai, Nilakottai, in W.A.(MD) No.312 of 2016 dated 22.02.2016, a Hon'ble Division Bench of this court, held as follows:

"In the abovesaid circumstances, we would only clarify that the interim order, granted in W.M.P(MD)Nos.23 and 24 of 2016 in W.P(MD)No.23 of 2016 dated 05.01.2016, would be an interim order, till the miscellaneous petitions are finally heard and decided, along with the vacate stay petition. It shall not be an interim order, as prayed for, in the miscellaneous petitions, till the disposal of the



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writ petition. It could only be an interim order, till the parties to the lis, are put on notice, in the interim applications and heard. With the above clarification, we only request the Writ Court, to take up the injunction petitions in W.M.P(MD)Nos.23 and 24 of 2016 in W.P(MD)No.23 of 2016, along with the vacate stay petition, and pass orders, as expeditiously as possible. Registry is directed to place the matter before the learned single Judge. Accordingly, the writ appeal is disposed of. No costs. Consequently, C.M.P(MD)No.1856 of 2016 is closed."

(v) In *Special Tahsildar No.III, Land Acquisition, Lignite Project, Neyveli, vs. V.Rangasamy Reddiar*, reported in AIR 1988 Madras 162, this Court, has held as follows:

"2.We are very much concerned to note a disturbing tendency that is fast developing now-a-days. In the recent past, we have come across several matters in which appeals are filed against ad interim ex parte orders without resorting to the normal course of approaching the court which passed such orders and seeking appropriate further orders in spite of the law having been clearly laid down by a Division Bench of this Court in *Abdul Shukoor v. Umachander* AIR 1976 Mad 350. No doubt, that case arose out of an order emanating from a Subordinate Court. The ratio of the decision will apply with more force to an order passed by a learned single Judge of this Court. Moreover the ad interim orders are not judgments within the meaning of clause 15 of the Letters Patent.

3.What concerns us most is that the Government and statutory Corporations very often indulge in by-passing the only lawful course and adopting a course expressly disapproved by this court. We hold that the appeals ought not to have been filed in this case. The only course open to the Government was to approach the court in charge of civil miscellaneous petitions and pray for the passing of appropriate final orders in the civil miscellaneous petition. We hope that there will be no recurrence of similar instances in future. We make it clear that if we come across any such appeals in future, we will be constrained not only to dismiss such appeals, but also penalise the parties concerned with orders of heavy costs."

The above said decision (AIR 1988 Madras 162) has been followed in Syed Zehera Jabeen vs. S.Padmanabhan, reported in 1988 II MLJ 423 = 1989 (1) L.W 112, and Telecom Regulatory Authority of India vs. Bharti Airtel Ltd., reported in 2013 (5) CTC 264.



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9. In similar circumstances, the Kerala High Court in *P.T.Thomas v. Bijo Thomas* [2021 SCC Online Ker 4000] went on to observe that if appeals against interim orders are entertained, the appellate court would be usurping the original jurisdiction of the court under Article 226 of the Constitution.

10. Thus, in the light of the aforesaid legal proposition, we are not inclined to entertain this appeal. However, considering the facts and circumstances of the case, we grant liberty to the appellant to move the writ court with necessary application either to modify the order or to vacate the stay. Accordingly, this writ appeal stands disposed of. No costs. Connected C.M.P. is closed.

[R.M.D.,J.] [M.S.Q., J.]
31.08.2023

Index: Yes / No
Speaking order/ Non-speaking order
Neutral Citation: Yes / No
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R.MAHADEVAN, J.
AND
MOHAMMED SHAFFIQ, J.

nsd

To

1.The District Registrar
Registration department,
District Registrar Office,
Vellappadi, Vellore 632 001.

2.The Deputy Inspection Cell Office,
Collectorate, Vellore 632 009.

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