



W.A(MD)No.795 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.06.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

**W.A(MD)No.795 of 2024
and
C.M.P(MD)No.5953 of 2024**

St.Antony's Church Committee,
Represented by its Vice President,
S.John Rajendran

... Appellant/
5th Respondent/5th Respondent

vs.

1.Anto A.B.S

... 1st Respondent/
Writ Petitioner/Writ Petitioner

2.The District Collector,
Nagercoil,
Kanyakumari District.

3.The Revenue Divisional Officer,
Kalkulam Taluk,
Padmanabhapuram,
Kanyakumari District.

4.The Thasildar,
Kalkulam Taluk,
Kanyakumari District.



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5.The Village Administrative Officer,
Kappiyarai Village,
Kappiyarai,
Kanyakumari District.

... Respondents 2 to 5/
Respondents 1 to 4/Respondents 1 to 4

PRAYER : Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 28.03.2024 made in W.M.P(MD)No.7198 of 2024 in W.P(MD)No.7926 of 2024.

For Appellant

: Mr.M.Ajmal Khan
Senior Counsel

For Respondents

: Mr.N.Satheesh Kumar
Additional Government Pleader
for R.2 to R.5

JUDGMENT

[Judgment of the Court was made by R.SURESH KUMAR, J.)

This intra Court Appeal has been directed against the interim order passed by the Writ Court, dated 28.03.2024 made in W.M.P(MD)No. 7198 of 2024 in W.P(MD)No.7926 of 2024.



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2.Heard Mr.M.Ajmal Khan, learned Senior Counsel appearing for the appellant.

3.When this Court posed a question to the learned Senior Counsel as to why the appellant has not moved a vacate stay petition against the order impugned passed by the learned Judge, as the said order had been passed at the admission stage as ad-interim injunction, where the aggrieved party ie., the present appellant can very well file a vacate stay petition to vacate the said order on merits, the learned Senior Counsel would contend that the very Writ Petition itself ought not to have been entertained by the learned Judge as every year such kind of orders are passed and such festival is being conducted by the present appellant, who is the fifth respondent in the Writ Petition and all these issues have been suppressed by the Writ Petitioner/first respondent and therefore, for all these reasons, the appellant wanted to prefer this intra-Court appeal before the Division Bench. Hence this appeal has been filed, the learned Senior Counsel contended.



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4.We are not impressed with the said reasoning given by the learned Senior Counsel appearing for the appellant. The reason is that an ad-interim order has been passed, which is impugned herein, by the learned Judge in W.M.P(MD)No.7198 of 2024 in W.P(MD)No.7926 of 2024, whereas, the said W.M.P(MD)No.7198 of 2024 is still pending, where only an ad-interim order on the *prima facie* case since has been passed by the learned Judge, against which it is very well open to the present appellant, who is the fifth respondent in the Writ Petition, to file a vacate stay petition, where all these points on merits on the main Writ Petition including the fact that the Writ Petition ought not to have been entertained by the learned Judge also could have been canvassed.

5.Therefore, we are not inclined to entertain this Writ Appeal. Therefore, it is liable to be dismissed, accordingly, it is dismissed with liberty to the appellant to file an appropriate petition to vacate the interim order, which is impugned herein, on merits and in accordance with law. The dismissal of this Writ Appeal need not be construed that this Court after having gone through the merits of the case has passed this order, as this Writ Appeal has been dismissed only on the reason that the appellant can approach the Writ Court by filing a vacate stay petition.



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6.With these observations, the Writ Appeal is dismissed.

Consequently, connected Miscellaneous Petition is closed. However, there shall be no order as to costs.

[R.S.K.,J.] [G.A.M.,J.]
03.06.2024

NCC : Yes / No
Index : Yes / No
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To

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ps

ORDER MADE IN
W.A(MD)No.795 of 2024

DATED : 03.06.2024