



Rev.Aplc(MD)No.75 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	:	25.03.2024
Pronounced on	:	.07.2024

CORAM:

THE HON'BLE MR.JUSTICE **K.K.RAMAKRISHNAN**

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1. M.Swaminatha Bhattar
2. M.Sundaresa Bhattar
3. M.Shanmugasundara Bhattar
4. M.Neelaganda Bhattar
5. M.Sivananda Bhattar ... Review Petitioners/Respondents 1 to 4 & 10

Vs.

- 1.Arulmighu Subramania Swamy Temple
Thirupparankundram
by its Executive Officer,
having Office at Thirupparankundram
Madurai-625 005. ... 1st Respondent/Petitioner
2. N.Nagappa Chettiar
3. J.Ramamoorthy
4. V.Periyaswamy
5. Maha Ganesan



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6. Vettai Muniyandi

... Respondents 1 to 5/Respondents 5 to 9

PRAYER : This Review Application is filed under Order 47 Rule 1 and Section 114 of Civil Procedure Code, to modify/review the order dated 10.06.2016 made in Civil Revision Petition No.1220 of 2002 before this Court and allow the Review Petition.

For Petitioners : Mr.S.Vellaichamy

For Respondents : Mr.S.Manohar for R1

: No appearance for R2 to R5

ORDER

The petitioners filed this review petition to review the order dated 10.06.2016 made in C.R.P.No.1220 of 2002 before this Court.

2.The revision petitioner is the son of the Muthusubramanya Bhattar. The said Muthusubramanya Bhattar claimed first Sthaniga Bhattar right in Arulmugu Thiruparankundram Subramanya Swamy Thirukoyil (Temple). During his period, he was doing Panguni festival, 8th day festival, Mandagapadi. For that purpose, he was granted the Uliyam



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Maniyam, i.e., the Ulliyam Inam land covering an extent of 4 acres, 10 cents, in the Survey No.18/2A of the Thiruparankundram village. He had a duty to use the income out of the lands to conduct the said Mandagapadi Urchavam in the Panguni Uttaram festival. After the death of the said Muthusubramanya Bhattar, the petitioners had continued as Bhattars in the Thiruparankundram Subramanya Swamy temple. That being the situation, after the death of the Muthu Subramanya Bhattar, the Inam land was transferred in their name and they sold the land without any authority, to the then MLA of the said constituency and hence, there was a complaint against the MLA and other persons relating to the alienation of the temple property.

3. In such circumstances, the “Executive officer” of the said temple issued the show cause notice terminating from the holding of Bhattar by issuing the impugned notice dated 13.07.1998, 16.07.1998. Challenging the same, they filed a suit in O.S.No.391 of 1998, on the file of the District Municipal Court, Tirumangalam. The same was allowed and hence, the temple authority filed a revision before this court in C.R.P.No.120 of 2002 and the same was allowed by this court setting aside the degree passed in



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O.S.No.391 of 1998 stating that the Civil Court has no jurisdiction and hence, challenging the same this Review Application has been filed by the petitioners.

4.The learned counsel for the petitioners submitted that the Civil Court has jurisdiction and the Civil Revision Petition is not maintainable. Once the decree was granted, first appeal has to be filed under Section 96 of C.P.C. Bypassing the statutory remedy, filing the C.R.P. is unknown practice and the same was liable to be interfered and to substantiate their plea, he relied the judgment of the Hon'ble Supreme Court in which this Hon'ble Court's judgment has been reversed by the Hon'ble Supreme Court and seeks to allow this review petition.

5. The learned counsel for the Temple Authority submitted that once the Civil Court has no jurisdiction, the civil revision under Article 227 Constitution of India is maintainable. He filed number of Authorities of the Hon'ble Supreme Court reported in 2021 (10) SCC 752 and 2020 (6) SCC 557 and other precedents of the Hon'ble Supreme Court and this Court.



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6. This Court considered rival submissions made by the learned counsel appearing on either side and perused the materials available on records.

6.1. Whether this review application has any merit?

7. The petitioners made alienation of the valuable lands of the temple property to the then sitting M.L.A. The lands are the service Inam Lands and inalienable. Therefore, show-cause notice dated 13.07.1998 calling for an explanation from them for initiation of action under Section 53(1) Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959(herein after called as TN HR&CE Act). They have also submitted their explanation on 15.07.1998. Thereafter, they filed the Suit in O.S.No. 391 of 1998, on the file of the District Munsif Court, Thirumangalam, to declare the said show cause notice and the proceedings by the first respondent as null and void and permanent injunction restraining the first respondent temple authorities from anyway initiating any action as against them affecting their service in the temple. The said suit was decreed. Challenging the same, the temple authorities filed the Civil Revision Petition before this Court and the same was allowed. Thereafter, the petitioners filed the review petition.



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8.From the above narration of the facts, this Court perused the impugned order and the provision of the TN HR & CE Act. This Court correctly considered Section 108 of the TN HR & CE Act and has held that the Civil Court has no jurisdiction and hence, decree passed by the Court below is a nullity. When the decree is passed without jurisdiction, this Court has power to entertain the revision under Article 227 of the Constitution of India and the same is fortified as per the law laid down by the Hon'ble Supreme Court in the case of *Milkhi Ram v. Himachal Pradesh State Electricity Board* reported in **2021 (10) SCC 752**. Hence, the same was correctly decided by this Court, by order dated 10.06.2016.

9.Executive Officer of the Temple has independent power to look the affairs of the temple and religious institution. The temple is under the control of the Tamil Nadu Hindu Religious and Charitable Endowment Department. Therefore, the Executive Officer is the custodian of the temple property. He has authority to take action against the person involved in the illegal transfer of the temple property. Hence, they issued the show-cause notice. Since the temple is managed by the Government, Government authority is the trustee of the temple and he has power to



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issue the show cause notice for the alleged misdeed said to have been committed by the petitioner.

10.The petitioners claimed that they are the bhattars and performing poojas and all other ritual services in the temple. Their ancestors were doing the same and also performed the Mandagapadi Service by using an income from the Inam land dedicated for that purpose. But these petitioners, with greed of making money diverted the said land and hence, faced the allegation of the mischief. In the said circumstances, the issuance of show cause notice is within the ambit of the Act and it is well settled principle neither the writ proceedings nor any other proceeding is maintainable to challenge the show-cause notice as held by the Hon'ble Supreme Court in the following decisions:

In the case of ***State of U.P. Vs. Brahm Datt Sharma*** reported in ***(1987) 2 SCC 179***:

“9. The High Court was not justified in quashing the show cause notice. When a show cause notice is issued to a government servant under a statutory provision calling upon him to show cause, ordinarily the government servant must place his case before the authority concerned by showing cause and the courts should be reluctant to interfere with the notice at that stage unless the notice is shown to have been issued palpably without any authority of law. ‘The



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purpose of issuing show cause notice is to afford opportunity of hearing to the government servant and once cause is shown it is open to the Government to consider the matter in the light of the facts and submissions placed by the government servant and only thereafter a final decision in the matter could be taken. Interference by the court before that stage would be premature, the High Court in our opinion ought not have interfered with the show cause notice.”

11.Further, the Supreme Court in the case of ***Union of India v. Kunisetty Satyanarayana*** reported in **(2006) 12 SCC 28** in paragraph Nos. 13 to 16 also has held as follows:

“13. It is well settled by a series of decisions of this Court that ordinarily no writ lies against a charge-sheet or show-cause notice vide Executive Engineer, Bihar State Housing Board v. Ramesh Kumar Singh (1996) 1 SCC 327, Special Director v. Mohd. Ghulam Ghouse (2004) 3 SCC 440, Ulagappa v. Divisional Commr., Mysore (2001) 10 SCC 639, State of U.P. v. Brahm Datt Sharma(1987) 2 SCC 179, etc.

14. The reason why ordinarily a writ petition should not be entertained against a mere show-cause notice or charge-sheet is that at that stage the writ petition may be held to be premature. A mere charge-sheet or show-cause notice does not give rise to any cause of action, because it does not amount to an adverse order which affects the rights of any party unless the same has been issued by a person having no jurisdiction to do so. It is quite possible that after considering the reply to the show-cause notice or after holding an enquiry the authority concerned



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may drop the proceedings and/or hold that the charges are not established. It is well settled that a writ petition lies when some right of any party is infringed. A mere show-cause notice or charge-sheet does not infringe the right of anyone. It is only when a final order imposing some punishment or otherwise adversely affecting a party is passed, that the said party can be said to have any grievance.

15. Writ jurisdiction is discretionary jurisdiction and hence such discretion under Article 226 should not ordinarily be exercised by quashing a show-cause notice or charge-sheet.

16. No doubt, in some very rare and exceptional cases the High Court can quash a charge-sheet or show-cause notice if it is found to be wholly without jurisdiction or for some other reason if it is wholly illegal. However, ordinarily the High Court should not interfere in such a matter.”

12. In view of the above law laid down by the Hon'ble Supreme Court, the suit filed to declare show cause notice is not maintainable and there is no reason to interfere with the order passed by this court dated 10.06.2016 in C.R.P.(MD).No.1220 of 2002 and the petitioner's case is not come under anyone of the circumstances enumerated in the following Judgment of the Hon'ble Supreme Court in the case of **Kamlesh Verma v. Mayawati**, reported in **(2013) 8 SCC 320** for entertaining the review applications:



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20.2. When the review will not be maintainable:

(i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.

(ii) Minor mistakes of inconsequential import.

(iii) Review proceedings cannot be equated with the original hearing of the case.

(iv) Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.

(v) A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected but lies only for patent error.

(vi) The mere possibility of two views on the subject cannot be a ground for review.

(vii) The error apparent on the face of the record should not be an error which has to be fished out and searched.

(viii) The appreciation of evidence on record is fully within the domain of the appellate court, it cannot be permitted to be advanced in the review petition.

(ix) Review is not maintainable when the same relief sought at the time of arguing the main matter had been negatived.



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13. Accordingly, this review petition is dismissed with the following direction:

13.1.The first respondent is hereby directed to proceed further on the basis of the show cause notice dated 13.07.1998 and 16.07.1998 and complete the proceeding within two months from the date of receipt of copy of this order.

13.2.The first respondent is directed to recover the remaining lands in the custody of the petitioners.

14.The dismissal of the review petition alone is not suffice. The Court has a duty to pass orders to protect the temple land. It is clear from records that valuable lands of the temple were alienated by the petitioners and they also have admitted the said fact.

14.1.But, from the records, this Court is unable to find whether any action was taken to recover the said land and also any criminal action was taken or not?

14.2.Therefore, this Court issues a direction to the first respondent to appear before this Court and file the report about the action taken to recover the land and file criminal proceedings against the petitioners and



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others for their fraudulent transaction, **on 29.07.2024.**

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15.Post the matter on **29.07.2024**, for “reporting compliance”.

.07.2024

NCC : Yes/No

Index : Yes/No

Internet : Yes/No

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To

The District Munsif,
Thirumangalam.



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K.K.RAMAKRISHNAN,J.

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