

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:10.07.2015

Coram

The Hon'ble Mr. Justice **T.S. SIVAGNANAM**

R.A. No.93 of 2015

G.Annadurai

.. Petitioner

Vs

1.The Commissioner
Hindu Religions & Charitable Endowments Board,
Nungambakkam, Chennai – 600 034.

2.The Joint Commissioner,
Hindu Religions & Charitable Endowments Board,
Villupuram & District.

3.P.Sivakumar

4.Krishnamoorthy

.. Respondents

Prayer:-The Review Application filed under Order 47 Rule (1) read with section 114 of CPC to review the order dated 24.02.2015 passed in W.P.No.3223 of 2015.

For Petitioner .. Mr.S.Thanjan

For Respondent .. Mr.R.Vijayakumar AGP for RR1&R2

ORDER

This Review Petition has been filed to review the order and direction issued by this Court in W.P.No.3223 of 2015, dated 24.02.2015. The operative portion of the order reads as follows:-

5. Thus, the remedy before the Government being effective, the petitioner has to necessarily file a revision before the Government and there is no justification to by-pass the said remedy. In terms of sub-section (4) of Section 114, the period of limitation is three months. Since the petitioner has filed this writ petition, this Court is of the view that the petitioner should be granted liberty to move the Government by way of revision and if such revision petition is filed within a period of thirty days from the date of receipt of a copy of this order, the Government shall entertain the revision without reference to limitation and decide the matter on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner as well as the respondents 3 and 4.

6. Accordingly, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

2. The learned counsel appearing for the petitioner submitted that in terms of Section 70 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, (Act), the only remedy open to the petitioner is to file a Suit before the concerned Court and revision petition is not maintainable. Therefore, the petitioner prays for

reviewing the order and modifying the same giving liberty to the petitioner to file a suit before the concerned Civil Court.

3. The learned Additional Government Pleader for the respondent Department does not have any objection to such course being adopted. Accordingly, the Review Petition is disposed of, by modifying the direction issued in paragraph 5, as follows:-

4. In terms of Section 70 of the Act any party aggrieved by an order passed by the Government under sub-section (1) or sub-section (2) of Section 69 and relating to any of the matters specified in Section 63, Section 64 or Section 67 or under Section 63, Section 64 or Section 67 read with sub-section (1)(a), 2 or (4)(a) of Section 22 or under Section 65 may, within ninety days from the date of the receipt of such order by him, institute a suit in the Court against such order, and the Court may modify or cancel such order, but it shall have no power to stay the order of the Commissioner pending the disposal of the Suit.

5. In the light of the efficacious alternate remedy available as stated above, the petitioner has to necessarily avail such a remedy and

the correctness of the impugned order cannot be tested in a Writ Petition. Accordingly, Writ Petition is disposed of giving liberty to the petitioner to work out his rights in terms of Section 70 of the Act.

6. The learned counsel appearing for the petitioner submitted that the limitation may be saved. It is needless to state that the Court shall take into consideration the time spent by the petitioner before this Court from 07.01.2015 till date (i.e.,) during the period when the Writ Petition was pending and disposed of by this Court and after which the Review Petition was filed on 22.04.2015 and disposed of today. No costs.

10.07.2015

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Index :Yes/No

To

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T.S.SIVAGNANAM J.
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