

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.12.2015

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THE HON'BLE MR. JUSTICE M.M.SUNDRESH

W.P.No.38354 of 2015
and M.P.Nos.1 and 2 of 2015

A.Kandasamy ... Petitioner

Vs.

1. The Commissioner,
H.R. & C.E.,
No.119, Uthamar Gandhi Salai,
Nungambakkam Main Road, Chennai - 34,
2. The Joint Commissioner,
Erst while Deputy Commissioner,
Hindu Religious & Charitable Endowment Board, Coimbatore,
3. The Joint Commissioner, H.R. & C.E., Salem.
4. M.Ramasamy
5. V.C.Ramasamy Gounder
6. N.Venkatachalam ... Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorari to call for the records relating to the Order dated 2.4.1983 made in RC.O.A.No.101 of 1980 on the file of the 2nd respondent and quash the same.

For Petitioner : Mr.D.Selvaraj

For Respondent : Mr.K.V.Dhanapalan,
Additional Government Pleader

ORDER

Challenging the Order dated 2.4.1983 made in RC.O.A.No.101 of 1980 by the 2nd respondent, the petitioner has come forward to file this writ petition.

2. Learned counsel appearing for the petitioner submitted that the petitioner is not aware of the earlier proceedings, which have been suppressed by the predecessors of the private respondents. Therefore, the act of fraud would vitiate all solemn acts. On the earlier occasion, an application has been filed for the very same relief and the same was rejected and confirmed in appeal. The suit filed by the predecessors of

the private respondents was also dismissed as withdrawn. Thereafter, suppressing the above said proceedings, the impugned order has been obtained on 2.4.1983 subsequently. As the petitioner has come to know of this suppression only now, a challenge has been made belatedly.

3. Learned Additional Government Pleader appearing for the official respondents submitted that an appeal would lie against the impugned Order under Section 69 of the Hindu religious and Charitable Endowments Act. Though the appeal prescribes a time limit, the 1st respondent has got the power to revise the order suo motu under Section 69(2) of the Act. Therefore, it is submitted that no interference is required at this stage by this Court.

4. Law is quite settled that an act of fraud would vitiate all solemn acts. The question as to whether the impugned Order dated 2.4.1983 has been obtained by fraud or not is a matter to be considered by the 1st respondent. Suffice it is to permit the petitioner to file an application before the 1st respondent requiring the said authority to invoke suo motu power. The petitioner is given four weeks time from the date of receipt of copy of this order to make such an application. As and when such an application is made by the petitioner, the 1st respondent is directed to take the application on file without rejecting the same on the ground of delay at the time of entertaining it. However, at the time of passing final orders, the question of delay can be considered in the light of allegations with reference to the fraud having been committed by the predecessors of private respondents. Thus, the question of delay is left open to the 1st respondent for consideration at the time of passing appropriate final orders.

The writ petition stands disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

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To

1. The Commissioner,
H.R. & C.E., No.119, Uthamar Gandhi Salai,
Nungambakkam Main Road, Chennai - 34,
 2. The Joint Commissioner, Erst while Deputy Commissioner,
Hindu Religious & Charitable Endowment Board, Coimbatore,
 3. The Joint Commissioner, H.R. & C.E., Salem.
- +1 cc to Mr.D.Selvaraj, Advocate, sr.65282

ksj.co.kra.11.12.2015

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