



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.01.2016

CORAM:

WEB COPY

THE HONOURABLE Mr.JUSTICE K.RAVICHANDRABAABU

W.P. (MD) No.23306 of 2015

and

M.P. (MD) Nos.1 and 2 of 2015

R.Dhakshinamoorthy

... Petitioner

Vs.

1.The Commissioner,
The Tamil Nadu Hindu Religious and
Charitable Endowments Board,
No.119/3, Uthamar Gandhi Salai,
Nungambakkam,
Chennai.

2.The Joint Commissioner,
The Tamil Nadu Hindu Religious and
Charitable Endowments Board,
Madurai.

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 1st respondent in R.Dis.A.P.2 of 2002, D2, dated 23.03.2010 and quash the same and consequently, direct the 1st respondent to decide the matter on merits after affording opportunity to the appellants therein.

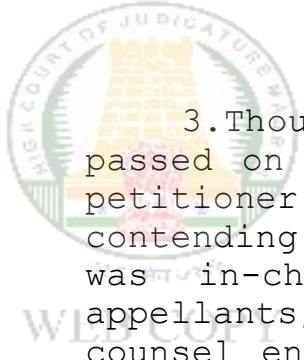
For Petitioner : Mr.S.Manikandan

For Respondents : Mr.V.Muruganantham, AGP

ORDER

Mr.Muruganantham, learned Additional Government Pleader takes notice for the respondents and by consent of parties, the main Writ petition itself is taken up for final disposal.

2.The petitioner is aggrieved against the order of the 1st respondent, dismissing the appeal filed by the petitioner and others. The said appeal was filed by the petitioner and others before the 1st respondent aggrieved against the order of the Joint Commissioner, Hindu Religious and Charitable Endowments Department, Madurai, dated 25.10.2000 in dismissing the O.A.No.44 of 1993 filed under Section 63(a) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959.



3. Though the impugned order in this Writ petition came to be passed on 23.03.2010, the present Writ petition is filed by the petitioner challenging the said order after a period of 4 years by contending that one of the appellants by name K. Karuppapillai, who was in-charge of conducting the appeal on behalf of the appellants, died during the pendency of the appeal and that the counsel engaged by the appellants to argue the matter before the 1st respondent also died in the mean time. Therefore, it is contended that the petitioner and other appellants were not aware of the order passed by the 1st respondent so as to challenge the same immediately.

4. It is further contended that the 1st respondent has passed the impugned order, dismissing the appeal without assigning any reason and that the said order being a non-speaking one, is liable to be set aside and the matter may be remitted back to the first respondent for considering the case of the appellants on merits and to pass appropriate orders in accordance with law.

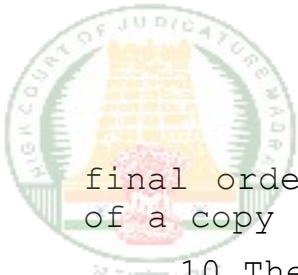
5. To the above said submission made by the learned counsel appearing for the petitioner, the learned Additional Government Pleader appearing for the respondents fairly submitted that neither the appellants nor the counsel before the 1st respondent appeared on the date of hearing of the appeal and that the impugned order was also passed without assigning any reason.

6. Heard both sides.

7. Perusal of the impugned order indicates that neither the appellants nor their counsel appeared on the date of hearing of the appeal and that the 1st respondent has also not assigned any reason for dismissing the appeal except by passing a single line order stating that the order of the Joint Commissioner, Madurai is confirmed.

8. Therefore, I am fully satisfied that the order of the 1st respondent impugned in this Writ petition cannot be sustained as the same has not stated any reason for dismissing the appeal filed by the appellants apart from the fact that the same was taken up and decided in the absence of the appellants as well as their counsel.

9. Accordingly, the impugned order is set aside and the matter is remitted back to the first respondent for passing fresh orders on merits and in accordance with law, after affording an opportunity of hearing to the appellants. Needless to say that this Court has not expressed any view on the merits of the claim made by the appellants in the above appeal, as it is for the 1st respondent to consider and decide on merits as stated supra. The 1st respondent is directed to complete the exercise of passing the



final order within a period of 12 weeks from the date of receipt of a copy of this order.

10. The Writ petition is disposed of accordingly. No costs. Consequently, connected M.Ps. are closed.

Sd/-
Assistant Registrar (W)

/True Copy/

Sub Assistant Registrar

To

1. The Commissioner,
The Tamil Nadu Hindu Religious and
Charitable Endowments Board,
No. 119/3, Uthamar Gandhi Salai,
Nungambakkam,
Chennai.

2. The Joint Commissioner,
The Tamil Nadu Hindu Religious and
Charitable Endowments Board,
Madurai.

+ 1 CC TO MR. S. MANIKANDAN, ADVOCATE IN SR NO. 9
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR NO. 440

NBJ

TE/SK-SKN/ : 12/01/2016 : 3P/5C

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