

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.01.2017

CORAM

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

W.P.No.1280 of 2017
and WMP.No.1208 of 2017

Kodambadi Inoothy Vagai Kongu Chettiar
Dharmaparibalana Sabai, Rep.by its
General Secretary to Thirunavukkarasu.D .. Petitioner

Vs

- 1.The Commissioner,
Hindu Religious & Charitable Endowment Department,
119, Uthamar Gandhi Street,
Nungambakkam, Chennai 600 034.
- 2.The Joint Commissioner,
H.R & C.E. Admin Department,
Coimbatore Division, Dr.Balasundaram Road,
Coimbatore District 641 018.
- 3.The Assistant Commissioner,
H.R.&C.E.Admin Department,
Tirupur Division, Veeraghava Perumal Temple Campus,
Tirupur 641 604.
- 4.A/m.Avilanshalingeswarar Temple,
Rep.by its Executive Officer,
Avinashi, Tirupur District 641 654. .. Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus calling for the entire records pertaining to the impugned order dated 04.01.2017 made in R.C.No.61835 of 2016 on the file of the 1st respondent and quash the same and consequently direct the 1st respondent to transfer the proceedings in M.P.No.109 of 2015/A1/on the file of 2nd respondent, to the file of some other competent Joint Commissioner to conduct fair enquiry on it, and pass such other suitable order as this Court.

For Petitioner : Mr.V.Srikanth

For R1 to R3 : Mr.M.Maharaja
Spl.Govt.Pleader (HR & CE)

For R4 : Mrs.Hema Sampath
Standing Counsel

O R D E R

The prayer in the writ petition is for issuance of writ of Certiorarified Mandamus calling for the entire records pertaining to the impugned order dated 04.01.2017 made in R.C.No.61835 of 2016 on the file of the 1st respondent and quash the same and consequently direct the 1st respondent to transfer the proceedings in M.P.No.109 of 2015/A1/on the file of 2nd respondent, to the file of some other competent Joint Commissioner to conduct fair enquiry.

2. An application was filed by the petitioner seeking to transfer M.P.No.109 of 2015 pending before the Joint Commissioner, HR & CE Department, Coimbatore to some other Joint Commissioner. By the order dated made in R.C.No.61835 of 2016 04.01.2017, the same was rejected.

3. The petitioner is represented by an advocate, claims to be the Secretary of the petitioner. This is the 3rd round of litigation. The only ground raised by the authroity is that the petitioner has given pressure. The learned senior counsel appearing for the fourth respondent would vehemently oppose stating that, while the case is at the stage of enquiry, the petitioner has come forward with the petition seeking transfer of the proceedings in M.P.No.109 of 2015. The said application is unwarranted.

4. The learned Special Government Pleader appearing for the respondents 1 to 3 would also submit that already the proceedings was dismissed. Even as per the impugned order in R.C.No.61835/2016, it is held as follows:

In this case, the Joint Commissioner has adjourned the hearing several times and fixed time for the oral arguments. The petitioner herein did not co-operate with the Joint Commissioner to conclude the proceedings. If the petitioner had documents in support of his case, there was not need to indulge in dilatory tactics to protract the enquiry in the proceedings pending before the Joint

Commissioner. It is bounden duty of the parties to co-operate with the Presiding Officer for the smooth conduct of enquiry and early disposal of the case. Delayed justice amounts to denial of justice.

8. As large number of cases filed under Section 78 of the Tamil Nadu HR & CE Act are pending before the Joint Commissioner, this office has instructed the Joint Commissioner to dispose the cases promptly without delay. Though the petitioner made some allegations against the Joint Commissioner, no affidavit was filed either by the petitioner or his counsel in support of the said allegations. The petitioner has only presumed that the Joint Commissioner will decide the case against him. The petitioner has filed this petition merely on assumption, presumption and apprehension. Further, even if the Joint Commissioner passes any order against the petitioner, the matter will not attain finality as effective appeal remedy is provided under the Act.

Therefore, I find no valid reason to transfer the proceedings pending before the Joint Commissioner, Coimbatore. Accordingly, the Miscellaneous petition is hereby dismissed as devoid of merits. The petitioner is given time to file documents and make oral arguments in support of his case within 30 days from the date of receipt of this order. If the petitioner fails, the Joint Commissioner may pass orders in accordance with the law.

Therefore, rightly the Commissioner has rejected the prayer for transferring the M.P.No.109/2015 pending before the Joint Commissioner, HR & CE Admin.Department, Coimbatore. I do not find any reason to interfere with the impugned order and the same is sustained.

5. However, it is made very clear that on instructions it is specifically stated that the petitioner may be permitted only to produce patta, chitta and adangal in respect of the property and he will not be permitted to produce any other documents.

6. In view of the above fact, the petitioner is permitted to produce the above said three documents viz. , patta, chitta and adangal of the property to the second respondent, within one

week from the date of receipt of a copy of this order. Thereafter, the enquiry shall be conducted by the second respondent and the petitioner shall co-operate for enquiry. However, the entire enquiry proceedings shall be completed within a period of two months from the date of production of documents by the petitioner. At any cost, the petitioner will not take any adjournments and will not file any application for stalling the production of documents.

7. With the above observation, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kkd

To

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SR(CO)
RS(12/04/2017)