



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.10.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.A.(MD)No.1321 of 2017 and
C.M.P(MD)No.9375 of 2017 in
WP(MD)No.15029 of 2017

P.M.Jagadish Pandian

: Appellant/Petitioner

.vs.

1. The Joint Commissioner,
Hindu Religious and Charitable Endowments
Administration Department,
Madurai - 625 001.

2. The Executive Officer,
Arulmighu Pandi Muneeswarar Kovil,
Melamadaï, Madurai District.

3. The Fit Person,
Arulmighu Pandi Muneeswarar Kovil,
Melamadaï,
Madurai District.

: Respondents/Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent praying this Court to set aside the order passed by this Court in W.P(MD)No.15029 of 2017, dated 20.09.2017.

Prayer in WP(MD). 15029/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus calling for the records relating the proceedings of the impugned order in Na.Ka.No.5218/2017/A1 dated 03.08.17 on the file of the 1st Respondent and quash the same and further directing the Respondents to permit the petitioner to exercise the poojari rights in Arulmigu Pandi Muneeswarar Kovil, Melamadaï, Madurai as a heir of Periannan @ Mahamuni Poojari.

For Appellant : Mr.V.Meenakshisundaram
for M/s.V.Elaiyaraja

For Respondents : Mr.VR.Shanmuganathan
Special Govt.Pleader

For Respondent-3 : Mr.M.Muthugeethaiyan

**JUDGEMENT****[Judgement of the Court was made by M.VENUGOPAL, J.]**

This Writ Appeal has been filed praying this Court to set aside the order passed by this Court in W.P(MD)No.15029 of 2017, dated 20.09.2017.

2.Heard both sides. No counter is filed on behalf of the respondents.

3.By consent, the main Writ Petition itself is taken up for final disposal.

4.Assailing the correctness, validity and legality of the order dated 20.09.2017 in W.P(MD)No.15029 of 2017 passed by the learned Single Judge in disposing of the Writ Petition by granting three weeks time to the Appellant/Writ Petitioner to prefer an appeal etc., the Appellant/Writ Petitioner has preferred this intra-court Writ Appeal basically contending that the learned Single Judge ought not to have directed the Appellant/Writ Petitioner to avail the alternative remedy of revision when the first respondent/the Joint Commissioner, Hindu Religious and Charitable Endowments Administration Department, Madurai - 625 001 has passed an order rejecting the claim of the Appellant/Writ Petitioner with wrong application of law.

5.Advancing his arguments, the learned counsel for the Appellant/Writ Petitioner submits that the first respondent/The Joint Commissioner, Hindu Religious and Charitable Endowments Administration Department, Madurai - 625 001 should not have applied the amended Section 55(2) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 to the present case, inasmuch as the same falls under Section 63(e) of the 'Act'. Therefore, the very approach of the learned Single Judge in directing the appellant to approach the appropriate appellate authority under the 'Act' is incorrect one.

6.While Winding up, the learned counsel for the appellant added further that as per proceedings of the very same first respondent/The Joint Commissioner, Hindu Religious and Charitable Endowments Administration Department, Madurai - 625 001 that all other legal heirs of Periyannan @ Mahamuni Poosari were receiving share till 2016(date of appointment of fit person) and in such circumstance, the denial of claim in respect of the Appellant/Writ Petitioner amounts to discrimination among equals. That apart, it is projected on the side of the Appellant that when the Appellant and other branches of Periyannan @ Mahamuni Poosari are exercising their right in the capacity of Hereditary Trustee and Poosaris, the application of Section 55(2) of the 'Act' which is applicable only for the appointment of Archakars is not applicable to the present case.

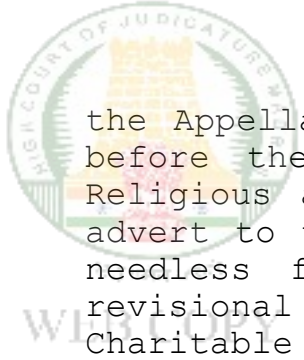


7.Lastly, it is the contention of the learned counsel for the appellant that the temple in dispute being exempted one as per order of the Board, dated 05.09.1935 in O.A.No.459 of 1933, the respondents do not have any jurisdiction to initiate any action on the Appellant/Writ Petitioner.

8.Per contra, it is the submission of Mr.VR.Shanmuganathan, learned Special Government Pleader appearing for the respondents 1 and 2 that the Appellant/Writ Petitioner, as against the impugned order, dated 3.8.2017 passed by the first respondent, a revision as per Section 21 of the 'Act' would lie and without exhausting such revisional remedy before the appropriate appellate authority concerned, under the 'Act', the Writ Petition preferred by the Appellant/Writ Petitioner is *per se* not maintainable in the eye of law. Furthermore, the appellant/Writ Petitioner has to follow the relevant provisions under the 'Act' to seek redressal of his grievance in the manner known to law and in accordance with law.

9.At this juncture, this Court on mere running of the eye of the contents of Section 21 of the 'Act' under the Caption '**Powers of Commissioner to call for records and pass orders**' is of the considered view that as against the order of the first respondent dated 3.8.2017, the Appellant/Writ Petitioner has a remedy of preferring a revision before the Commissioner and in fact, the Commissioner, Hindu Religious and Charitable Endowments Department, Chennai is the supervising authority, can indeed, make use of the ingredients of Section 21 of the 'Act' to set right an incorrect, invalid and an erroneous/illegal order purportedly passed by the first respondent.

10.In view of the fact that the Appellant/Writ Petitioner has a remedy under the 'Act' to prefer a revision under Section 21 of the 'Act', this Court, simpliciter, without expressing any opinion on the merits of the matter and not dwelling deep into the matter, directs the Appellant/Writ Petitioner to approach the Commissioner, Hindu Religious and Charitable Endowments Department, Chennai(not to file an appeal under Section 69 of the 'Act') within a period of two weeks from the date of receipt of a copy of this order. In the event of preferring a revision by the Appellant/Writ Petitioner before the Commissioner, Hindu Religious and Charitable Endowments Department, Chennai within the time adumbrated by this Court, the Commissioner, Hindu Religious and Charitable Endowments Department, Chennai is directed to entertain the same without insisting upon/without making any plea of limitation period and thereafter to pass a reasoned speaking order on merits, of course on qualitative and quantitative terms, after adhering to the principles of natural justice by providing necessary opportunity to the Petitioner and others concerned, if any, in the manner known to law and in accordance with law. The Commissioner, Hindu Religious and Charitable Endowments Department, Chennai shall dispose of the revision within a period of five weeks thereafter. It is open to



the Appellant/Writ Petitioner to raise all factual and legal pleas before the revisional authority namely, the Commissioner, Hindu Religious and Charitable Endowments Department, Chennai, who shall advert to the same and to pass orders in question on merits. It is needless for this Court to make a pertinent mention that the revisional authority/The Commissioner, Hindu Religious and Charitable Endowments Department, Chennai shall pass orders on the revision petition to be filed by the Appellant/Writ Petitioner uninfluenced and untrammelled with any of the observations made by the learned Single Judge in the Writ Petition or the order passed by this Court in this Writ Appeal.

11. With the above said observation(s) and direction(s), the Writ Petition stands disposed of. Consequently, connected Civil Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Joint Commissioner,
Hindu Religious and Charitable Endowments
Administration Department,
Madurai - 625 001.
2. The Executive Officer,
Arulmighu Pandi Muneeswarar Kovil,
Melamadai, Madurai District.
3. The Fit Person,
Arulmighu Pandi Muneeswarar Kovil,
Melamadai,
Madurai District.

+ 1 CC TO Mr.V.ELAIYARAJA, ADVOCATE IN SR No. 82778
+ 1 CC TO Mr.M.MUTHUGEETHAIYAN, ADVOCATE IN SR No. 82563

VSN

TE/MR-KKR/SAR-II : 30/10/2017 : 4P/6C

JUDGEMENT MADE IN
W.A. (MD) No.1321 of 2017 and
C.M.P (MD) No.9375 of 2017 in
WP (MD) No.15029 of 2017
12.10.2017