



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.06.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A. (MD) No.560 of 2017

and

C.M.P. (MD) Nos.4685 & 4686 of 2017

A.Susindran

... Appellant

-vs-

The Joint Commissioner
Hindu Religious & Charitable Endowment
Madurai - 600 001

... Respondent

Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 13.04.2017 in W.P.(MD).No.6737 of 2017, on the file of this Court.

Prayer in WP(MD). 6737/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari calling for the records of the respondent in Na.Ka.No. 456/2016/Aa1 dated 06.03.2017 and quash the same as illegal arbitrary and unenforceable.

For Appellant : Mr.V.K.Vijayaragavan, Senior Counsel
for Mr.M.R.S.Prabhu

For Respondent : Mr.V.R.Shanmuganathan
Special Government Pleader

J U D G M E N T

[Judgment of the Court by T.S.SIVAGNANAM, J.]

Heard Mr.V.K.Vijayaragavan, learned Senior Counsel appearing for Mr.M.R.S.Prabhu, learned counsel for the appellant and Mr.V.R.Shanmuganathan, learned Special Government Pleader, appearing for the respondent.



2. This appeal is directed against the order, dated 13.04.2017, made in W.P.(MD) No.6737 of 2017, which was filed challenging the order, dated 06.03.2017, passed by the respondent, in and by which a direction was issued to the trustees of Arulmigu Mariamman Temple, Nilakottai Town & Taluk, to retrieve the movable and immovable properties from Uravin Murai and to restore the Patta and other documents in the name of Temple.

3. The appellant in the capacity of trustee would contend that the respondent has no jurisdiction to decide the question of title and in spite of placing several documents before the respondent, the impugned order in the writ petition was passed without properly construing the various contentions and therefore, the said order requires to be set aside on the ground of lack of jurisdiction.

4. The learned Special Government Pleader appearing for the respondent, on the other hand, would submit that the appellant is only a trustee and he has no *locus standi* to question the order passed by the respondent. Further, it is contended that there is an alternative remedy available under Section 21 of H.R. & C.E.Act and the aggrieved person has to avail the revisional remedy.

5. In fact, the very same contention was raised before the Writ Court and the Writ Court disposed of the writ petition with a direction to the appellant to approach the Commissioner, H.R. & C.E. Department, assailing the order passed by the respondent and the Commissioner was also directed to dispose of such revision filed by the appellant within a time frame and in the meanwhile, until final order is passed, *status quo* prevailing on the date of the order, namely, 13.04.2017, was directed to be maintained.

6. After elaborately hearing the learned counsel appearing for the parties and carefully perusing the materials placed on record, we are in full agreement with the directions issued by the Writ Court directing the appellant to approach the Commissioner, H.R. & C.E.Department by way of revision. We are informed by the learned Senior Counsel for the appellant that a revision has already been filed before the Commissioner, H.R. & C.E.Department.

7. Considering the said fact and since the question of jurisdiction of the respondent to pass the impugned order has been raised, we deem it appropriate to issue certain directions to the Commissioner, H.R. & C.E. Department as to the manner in which the revision could be considered.

8. Accordingly, while affirming the order passed by the Writ Court, the following additional directions / modifications are made:

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(i) The appellant is at liberty to raise the issue



with regard to jurisdiction of the respondent in passing the order, dated 06.03.2017, before the Commissioner, H.R. & C.E.Department, as an issue, which shall be decided as a preliminary issue along with other issues.

(ii) With regard to the interim protection is concerned, it is open to the appellant to file an interlocutory application in the pending revision before the Commissioner, H.R. & C.E.Department, for which we grant thirty days (30 days) time from the date of receipt of a copy of this Judgment.

(iii) Till such time, the *status quo* which is prevailing as on date shall be maintained and neither the appellant nor the Uravin Murai members are entitled to alienate the properties of the Temple and the position prevailing as on the date of the order, namely, 06.03.2017, shall continue to be maintained for the period till the interlocutory application is decided by the Commissioner, H.R. & C.E.Department.

(iv) The respondent is also entitled to canvass all the points, including the point of *locus standi* of the appellant to maintain the revision, before the Commissioner, H.R. & C.E. Department.

(v) The Commissioner, H.R. & C.E. Department, is directed to dispose of the revision as expeditiously as possible preferably within a period of three months from the date on which the interlocutory application is disposed of.

(vi) We make it clear that we have not expressed any opinion on the merits of the matter and the parties are left open to raise all issues in the pending revision.

(vii) We make it clear that if there is any dispute with regard to the title, the Civil Court can only decide the same and not the Commissioner, who has no jurisdiction to decide the question of title.

9. With the above directions, the writ appeal is disposed of. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(Crl side)



To:

1. The Commissioner, H.R. & C.E. Department,
Nungambakkam, Chennai-600 034.

2. The Joint Commissioner,
Hindu Religious & Charitable Endowment,
Madurai - 600 001.

+1cc to Mr.M.R.S.Prabhu, Advocate Sr.No.59039

+1cc to Spl.Government Pleader Sr.No.59438

IA/KRK

VB/SV/MMS/SAR3/19/06/2017/4P/5C

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