



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE **T.S.SIVAGNANAM**
AND
THE HONOURABLE MR.JUSTICE **P.VELMURUGAN**

W.A. [MD] .No.607 of 2017
and
C.M.P. [MD]No.4999 of 2017

Pitchaiammal @ Kamatchiammal : Appellant/4th respondent
Vs.

A.Dhakshinamoorthy (Died)

1.D.Baby,
2.D.Thirupathy,
3.D.Tamil Ganesan,
4.D.Sivakumar,
5.D.Muthuselvam, : Respondents 1 to 5/Petitioners 2 to 6

6.The Commissioner/Special Commissioner,
Hindu Religious and Charitable
Endowment Department,
Nungambakkam, Chennai-600 034.

7.The Joint Commissioner,
Hindu Religious and Charitable
Endowment Department,
Nethaji Road, Madurai-625 001.

8.M.Anandhan,
9.T.Alagu Sundaram,
10.The Joint Commissioner,
Hindu Religious and Charitable
Endowment Board, Tirunelveli. ...Respondents 6 to 10/
Respondents 1,2,3,5,6

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent to against the order dated 01.02.2017 made in W.P.(MD).No.4292 of 2010.

Prayer in WP(MD). 4292/ 2010 :

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 relating to the impugned order in Se.Mu.N.K.A.No.9290/2007/A-1 dated 15-02-2010 passed by the 2nd Respondent as illegal and contrary to law and quash the same.



For Appellant : Mr.R.Subramanian
For R1 to R5 : Mr.D.Nallathambi,
For R6,7 and 10 : Mr.VR.Shanmuganathan,
Special Government Pleader.
For R8 : Mr.P.J.Ramesh Raja.

JUDGMENT

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

Heard Mr.R.Subramanian, learned counsel appearing for the appellant, Mr.D.Nallathambi, learned counsel appearing for the respondents 1 to 5, Mr.VR.Shanmuganathan, learned Special Government Pleader appearing for the respondents 6,7 and 10 and Mr.P.J.Ramesh Raja, learned counsel appearing for the 8th respondent.

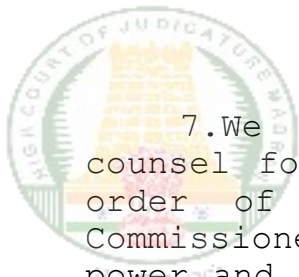
2.By consent, the Writ Appeal is taken up for final disposal.

3.This Writ appeal is directed as against the order dated 01.02.2017 made in W.P.(MD).No.4292 of 2010, in which the appellant is the 4th respondent.

4.It is submitted by the learned counsel for the appellant that the Joint Commissioner, Madurai alone ought to have been directed to take up the matter and the learned Single Judge erroneously remanded the matter to the Joint Commissioner, Hindu Religious & Charitable Endowment Department, Tirunelveli and the said Joint Commissioner is not entitled to proceed with the matter as the issue, which has been remanded to the Joint Commissioner, Tirunelveli, pertains only to removal of the petitioner and other Trustees, pursuant to the order passed by the Commissioner of H.R & C.E in A.P.14 and 21 of 2014 dated 22.07.2014.

5.After elaborately hearing the learned counsels of the parties and perusing the materials placed on record, we find that there is no error in remanding the matter to the Commissioner of H.R & C.E, Tirunelveli as the Commissioner by his order dated 22.07.2014 noted that the appellant herein made certain allegations against the Joint Commissioner, Madurai and for such reason, the case was transferred to the Joint Commissioner, Tirunelveli.

6.The learned counsel for the appellant sought to make a distinction between both the matters, which are pending before the Joint Commissioner, Tirunelveli and the Joint Commissioner, Madurai by pointing out that the matter before the Joint Commissioner, Tirunelveli pertains to the order of removal, dated 05.03.2014. The matter now pending before the Joint Commissioner, Madurai pertains to the correctness of the order appointing trustees, dated 15.02.2010, and therefore the matter should not be decided by the Joint Commissioner, Tirunelveli as both issues are different.



7. We are unable to accept the submissions of the learned counsel for the appellant for more than one reason. Firstly, the order of remand to a particular officer was passed by the Commissioner, Head of the Department in exercise of his statutory power and the said officer has commenced the enquiry. The power of the Commissioner, H.R & C.E. to transfer case is not disputed. Secondly, the petitioner and others have made certain allegations against the Joint Commissioner, Madurai and it would not be appropriate for the said authority to take on file the matter though there might have been a change of the officer.

8. In our considered view, no prejudice is caused to any of the parties, since in the earlier round the parties have fully participated in the enquiry conducted and the officer was transferred and new officer has taken charge and he has issued notice to all the parties and all the parties including the appellant appeared before the Joint Commissioner and sought for time on the ground that they are approaching this Court by way of this Writ Appeal.

9. Considering the facts and circumstances of the case, we find there is no error in the order remanding the matters to the Joint Commissioner, Tirunelveli. For the above reasons, no good grounds are made out to interfere with the impugned order. Accordingly, this Writ Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Commissioner/Special Commissioner,
Hindu Religious and Charitable
Endowment Department,
Nungambakkam, Chennai-600 034.
2. The Joint Commissioner,
Hindu Religious and Charitable
Endowment Department,
Nethaji Road, Madurai-625 001.
3. The Joint Commissioner,
Hindu Religious and Charitable
Endowment Board, Tirunelveli.

+1cc to Mr. SPECIAL GOVERNMENT PLEADER in SR. No.60615

+1cc to M/s. R. SUBRAMANIAN Advocate in SR. No.60504

+1cc to M/s. D. NALLATHAMBI Advocate in SR. No.60481

MYR/DSS

JS/SV.MMS/SAR.2/22.6.2017/2P-7C

JUDGMENT MADE IN

W.A. [MD].No.607 of 2017

and

C.M.P. [MD]No.4999 of 2017

15.06.2017