

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.01.2018

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A No.1055 of 2014 and
M.P.No.1 of 2014

L.Ravi

...Appellant

Vs

- 1.The Joint Commissioner,
HR & CE Administrative Department,
Vellore, Vellore District.
- 2.The Commissioner,
HR & CE Administrative Department,
Mahatma Gandhi Road,
Nungambakkam, Chennai - 600 034.
- 3.The Assistant Commissioner,
Executive Trustee,
Arulmighu Devarajaswamy Temple, Kancheepuram.
- 4.T.E.Vijayaraghavan (Died)
- 5.P.B.Ranganathan (Died)
- 6.T.A.Ranganathan
- 7.E.Veeraraghavan
- 8.E.Srinivasaraghavan
- 9.T.C.Srinivasan
- 10.K.Nagappan
- 11.K.S.Lakshmikumara Thatachariar
- 12.T.E.A.S.Varadhan
- 13.P.B.Rajahamsam

...Respondents

(R4 and R5 deceased and R12 and R13
Substituted vide order dated 05.12.2017
in CMP Nos.20188 &20189/2016)

Prayer:- Writ Appeal filed under clause 15 of the Letter Patent to set aside the order dated 12.06.2014 made in W.P.No.11256 of 2013.

W.P.No.11256 of 2013:

Petition presented under Article 226 of the constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the case in impugned order in SMR O.A.No. 95 of 1978 dated 12.10.2012 passed by the 1st respondent and to quash the

same and consequently direct the 1st respondent to grant the personal hearing before passing any order in the said proceedings in SMR O.A. No.95 of 1978.

For Appellants :Mr.M.Moorthy

For Respondents:Mr.M.Maharaja

Spl.Govt.Pleader for R1 to R3
Mr.Menon Karthik Mukundan for R6
Ms.K.Ezhilarasi for R7
No appearance - R8 and R11
Mr.S.Victor Prasath for R9
Mr.P.Ravishankar Rao for R10
Mr.K.V.Ananthakrushnan
for R12 and R13

J U D G M E N T
(made by K.K.SASIDHARAN,J.)

This intra court appeal is directed against the order dated 12 June, 2014 in W.P.No.11256 of 2013 dismissing the writ petition filed by the appellant challenging the order dated 12 October, 2012 on the file of the Joint Commissioner, HR & CE Department, Vellore, confirming the Draft Scheme dated 4 December, 2009 in O.A.No.95 of 1978.

2. We have heard the learned counsel for the appellant, the learned Special Government Pleader on behalf of respondents 1 to 3 and the learned counsel for the respondents 6, 7, 9, 10, 12 and 13.

3. The Joint Commissioner, HR & CE Department, Vellore, initiated suo motu proceedings in O.A.No.95 of 1978 invoking Section 64(5)(a)(b) of the Hindu Religious and Charitable Endowments Act, 1959. The Draft Scheme in respect of Arulmighu Devarajaswamy Temple, Kancheepuram was framed after issuing notice to all the parties concerned. The Scheme was challenged in W.P.Nos.512 and 2082 of 1982. The petitioners before the writ court challenged the authority of the Deputy Commissioner to frame a Scheme. The writ petitions were dismissed. The related writ appeals were dismissed in W.A.Nos.122 and 141 of 1987. The judgment was unsuccessfully challenged before the Hon'ble Supreme Court in Civil Appeal No.4570 of 1998. The Hon'ble Supreme Court held that the Deputy Commissioner/Joint Commissioner of the HR & CE Department has authority to modify or cancel the Schemes settled for the Religious Institutions including cases, wherein, Schemes were settled by the Civil Courts.

4. Thereafter, the Statutory authority considered the Draft Scheme in O.A.No.95 of 1978. There were series of proceedings before this Court challenging various proceedings initiated by the Joint Commissioner, HR & CE Department.

5. While dismissing the appeals filed against the order in W.P.Nos.23049 and 23050 of 2003, the Division Bench directed the concerned parties to avail the alternative remedy available to them under Section 69 of the HR & CE Act, in case, they were aggrieved by the proceedings initiated by the Joint Commissioner, HR & CE Department.

6. The Joint Commissioner, by order dated 12 October, 2012, confirmed the Draft Scheme after hearing all the parties concerned.

7. The appellant filed a writ petition before this Court in W.P.No.11256 of 2013 on the ground that opportunity was not given to him to make submissions inspite of filing a petition for impleading.

8. The learned single Judge dismissed the writ petition primarily on the ground that the matter was pending for a period of 25 years and the Scheme was confirmed only in 2012.

9. The order passed by the Joint Commissioner is challenged also on the ground that enquiry was conducted only by his immediate predecessor. It was the further contention of the appellant that opportunity of hearing was not given to him before rejecting the application for impleading.

10. The order passed by the Joint Commissioner dated 12 October, 2012 does not contain any indication that the impleading petition filed by the appellant was dismissed. In case, the application filed for impleading was dismissed, the appellant ought to have challenged the said order in the manner known to law. There is no question of entertaining a writ petition on the ground that the order was passed without giving an opportunity of hearing.

11. The Joint Commissioner considered the entire factual matrix including the background facts and approved the Draft Scheme. The Draft Modified Scheme was issued on 4 December, 2009. It was confirmed by the impugned order. The proceedings were initiated in the year 1978. It was culminated only in 2012. Nothing prevented the appellant from filing application for impleading immediately after registering suo motu proceedings by the Joint Commissioner.

12. The appellant waited till the disposal of the proceedings before this Court and the Supreme Court and thereafter appears to have filed application for impleading. Similarly, nothing prevented the appellant from taking action for disposal of his application. In case, the application has already been rejected, he ought to have challenged the said order in the manner known to law.

13. The learned single Judge considered the entire background facts and rightly dismissed the writ petition. We do not find any error or illegality warranting interference by this Court.

14. We are informed that the respondents 8, 9 and 11 have already filed appeal before the Commissioner, HR & CE Department, challenging the Scheme dated 12 October, 2012 and the appeals were registered as A.Nos.12, 13 and 14 of 2013. It is open to the concerned respondents to agitate the issue before the Appellate Authority. We make it clear that the observation made by us for the disposal of this writ appeal would not stand in the way of the parties taking up appropriate contentions before the Appellate Authority.

15. In the up shot, we dismiss the intra court appeal. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

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To

1. The Joint Commissioner,
HR & CE Administrative Department,
Vellore, Vellore District.

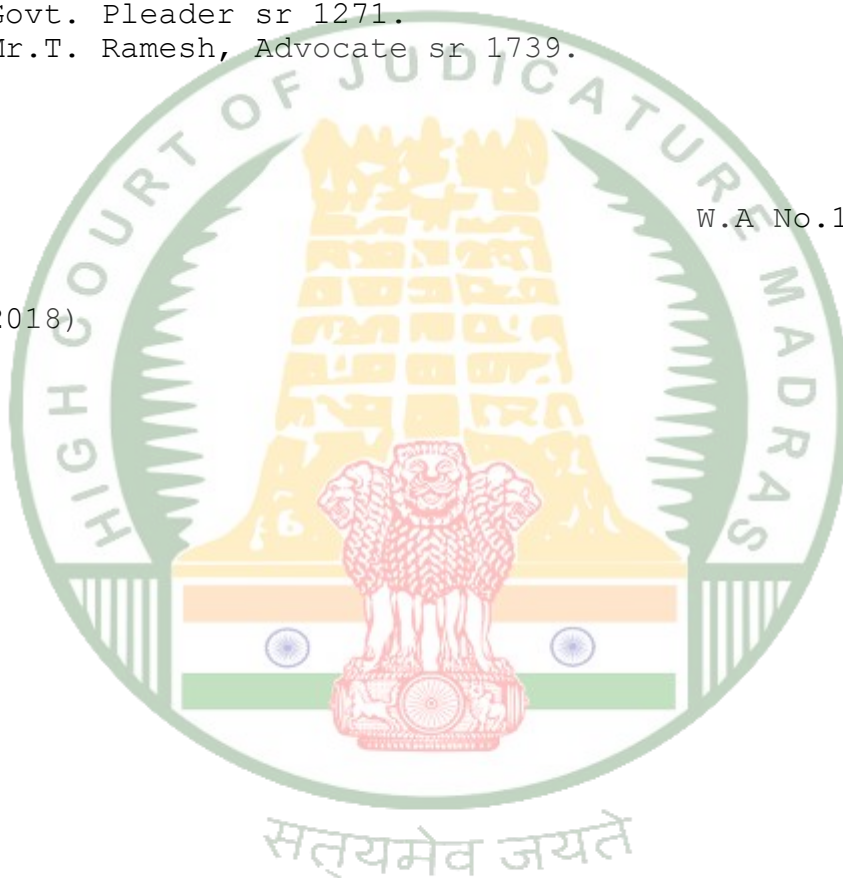
2. The Commissioner,
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3.The Assistant Commissioner,
Executive Trustee,
Arulmighu Devarajaswamy Temple, Kancheepuram.

+1 CC to Mr.K. Moorthy, Advocate sr 993.
+1 CC to Mr.S. Victor Prasath, Advocate sr 918.
+1 CC to M/s. Menon Karthick, Mukundan & Neelakandan, Advocate
sr 920.
+2 Ccs to Mr.K.V. Anantha Krushnan, Advocate sr 1063
+1 CC to Mr.P. Ravishankar, Advocate sr 1256.
+1 CC to Govt. Pleader sr 1271.
+1 CC to Mr.T. Ramesh, Advocate sr 1739.

W.A No.1055 of 2014

RSY (CO)
SP(06/02/2018)



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