

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :31.08.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No. 21650 of 2016
and WMP.No.18497of 2016

1. B.Lalitha
2. R.Mahendran
3. N.Nammalwar
4. V.Sudhakar
5. R.Jayachandran
6. Syed Ahamed Hussain ..Petitioners

vs

1. The State of Tamil Nadu,
Rep by the Secretary to Government,
Tourism, Culture and Religious Endowments Department,
Fort St.George, Chennai - 600 009.
2. Arulmighu Ekambareswara Thirukoil,
Rep.by its Executive Officer,
having its office at the temple premises,
Aminjikarai, Chennai - 600 029

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records in the order of the first respondent in G.O.No.260 of 2015 dated 06.11.2015 and quash the rule 10(1) of the G.O.No.260 of 2015 dated 06.11.2015.

For Petitioner : Mr.E.Manoharan

For Respondents: Mr.M.Maharaja
Special Government Pleader (HR & CE)
for R1
Mr.S.D.Ramalingam for R2

O R D E R

The order of the 1st respondent issued in G.O.No.260 of 2015 dated 06.11.2015 and the Rule 10 (1) of the G.O.No.260 of 2015, sought to be quashed in the present writ petition.

2. The learned counsel appearing for the petitioner states that the Executive Officer has no power to file a civil suit. The Rules framed by the respondents in respect of the conditions for appointment of Executive Officer Rules, 2015 which was published on 06.11.2015, cannot have any retrospective application, so as to affect the grounds raised by the parties before issuance of Rules.

3. The learned counsel appearing for the petitioner states that the suits filed prior to the issuance of the Rules are to be held as invalid and non-est in law.

4. The learned counsel appearing for the 2nd respondent / Temple opposed the contention by stating that the said Rules were elaborately discussed by the Hon'ble Division Bench of this Court in WP.No.2290 of 2017 and the judgment was delivered on 31.01.2017. The implications of Rule 10 also had been adjudicated by the Hon'ble Division Bench and the judgment of the Hon'ble Supreme Court in this regard also had been discussed by the Division Bench and the writ petition, filed challenging the very same rules, was dismissed by the Division Bench. Thus, the present writ petition cannot be maintained and the grounds raised before the Hon'ble Division Bench and in the present writ petition are one and the same.

5. The learned counsel appearing for the petitioner states that he has raised a new ground on retrospective implications of the said Rule 10. Even on reading on Rule 10, it is stated that nothing contained in these rules shall adversely affect the powers of the Executive Officer, who has been holding the post immediately before the date of commencement of these rules.

5. Thus, the Rules saves the Executive Officers, who were appointed and holding the post prior to the issuance of the Rules. Therefore, this Court is not inclined to consider the grounds raised in the present writ petition, as the issues were already settled by the Hon'ble Division Bench.

6. The writ petition stands dismissed with the above observations. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Deputy Registrar

// True Copy//

Sub Assistant Registrar

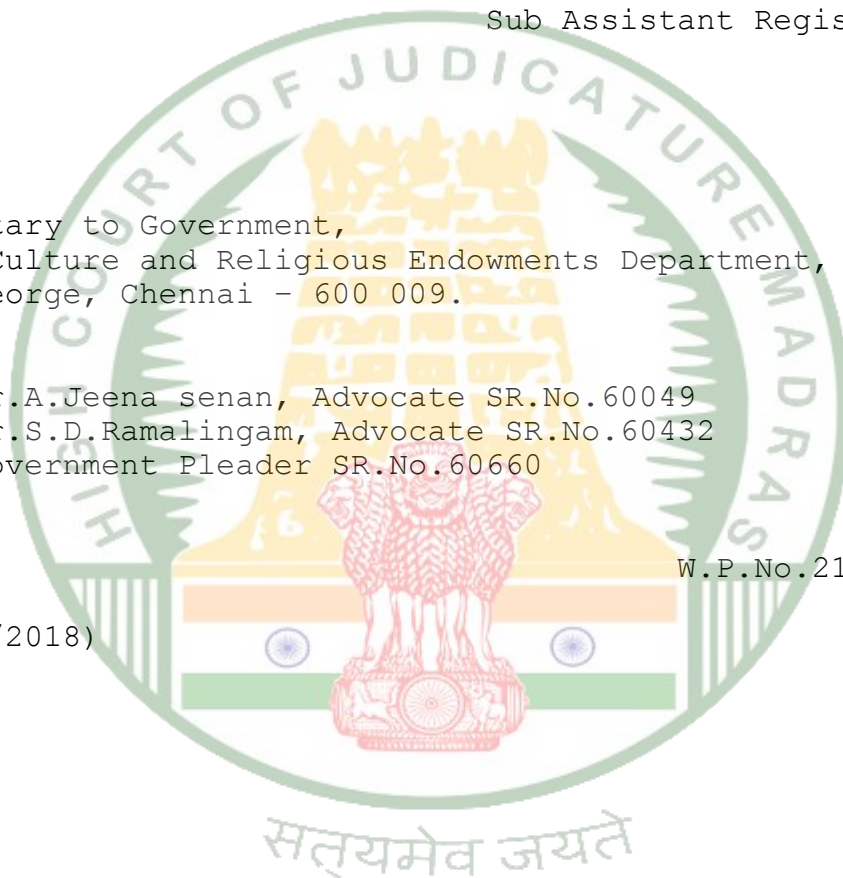
sk/pns
To

The Secretary to Government,
Tourism, Culture and Religious Endowments Department,
Fort St.George, Chennai - 600 009.

+1cc to Mr.A.Jeena senan, Advocate SR.No.60049
+1cc to Mr.S.D.Ramalingam, Advocate SR.No.60432
+1cc to Government Pleader SR.No.60660

W.P.No.21650 of 2016

RMP (19/09/2018)



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