

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2018

CORAM

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

W.P.No.36163 of 2016

and

W.M.P.Nos.31116 to 31118 of 2016

and

W.M.P.No.19954 of 2017

S.Jayaprabhakaran ...Petitioner

Vs

1.The Secretary to the Government
of Tamilnadu,
Hindu Religious and Charitable Endowments
Department, Fort St.George,
Chennai - 600 009.

2.The Commissioner,
Hindu Religious and Charitable Endowments
(Administration) Department,
Nungambakkam High Road,
Chennai - 600 034.

3.The Joint Commissioner,
Hindu Religious and Charitable Endowments
(Administration) Department,
SONA Plaza, 1st Floor,
No.1254, R.D.O.Salai,
Sathuvachary, Vellore - 9.

4.The Assistant Commissioner,
Hindu Religious and Charitable Endowments
(Administration) Department,
SONA Plaza, 1st Floor,
No.1254, R.D.O.Salai,
Sathuvachary, Vellore - 9.

5.The Executive Officer,
Arulmighu Chelliamman Thirukoil,
River Palar Bed,
Vellore - 632 004.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ or order or direction, particularly in the nature of Writ of Certiorarified Mandamus, to call for the records relating to the notice of the 4th respondent in Na.Ka.No.2370/2012/E1 dated 21.09.2016, quash the same and consequently directing the 2nd

respondent to furnish the order passed in the Revision Petition filed by the petitioner in R.P.No.87 of 2013 D2 dated 30.06.2014 filed under Section 21 of the Tamilnadu Hindu Religious and Charitable Endowments Act, 1959 against the order dated 01.03.2013 of the respondent in Proc.Rc.No.4717/2006-C1 filed under Section 78 of the Act, so as to enable the petitioner to prefer Appeal before the 1st respondent under Sections 114 and 114-A of the Tamilnadu Hindu Religious and Charitable Endowments Act, 1959.

For Petitioner :Mr.K.Sridhar

For Respondents:Mr.M.Maharaja, Spl GP(HR & CE)

For R1 to R4

Mr.P.Ravishankar Rao for R5

O R D E R

The learned counsel appearing on behalf of the writ petitioner confined his arguments by stating that the order of the Commissioner, Hindu Religious and Charitable Endowments [hereinafter referred to as "HR & CE"] Department, had not been served at all to the writ petitioner. In the absence of the receipt of the final order passed by the Commissioner, the writ petitioner is unable to prefer an appeal to the Government under the provisions of the "HR & CE" Act.

2.Though the said fact was disputed by the learned Special Government Pleader, he fairly submitted that now before the Court across the bar, the order passed by the Commissioner has been served to the learned counsel appearing on behalf of the writ petitioner. Further, the learned Special Government Pleader contended that the Government is ready to dispose of the appeal, if any filed by the writ petitioner, pursuant to the orders of this Court. It is brought to the notice of the Court that the petitioner has failed to pay the monthly rent to the Department from the year 2007 onwards. Even for preferring an appeal, the arrears of rent is to be deposited before the competent authority. Taking note of the submissions made by the respective counsels appearing on behalf of the writ petitioner and the respondents, this Court is of an opinion that it is suffice, if a direction is issued, permitting the writ petitioner to prefer an Appeal to the Government in accordance with the provisions of the "HR & CE" Act, 1959.

3.Accordingly, the writ petitioner is at liberty to prefer an appeal, challenging the final order passed by the Commissioner, "HR & CE" Department on 30.06.2014 within a period of four weeks from the date of receipt of a copy of this order. At the time of filing of the appeal, the writ petitioner should enclose the payment receipt in respect of the payment of entire arrears of the rent till the date of appeal. On receipt of any such appeal from the writ petitioner along with the payment receipt, then the same shall be taken on file and the 1st respondent is directed to consider the same

on merits and in accordance with law and pass final orders within a period of twelve weeks thereafter.

4. Accordingly, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

kak

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to the Government
of Tamilnadu,
Hindu Religious and Charitable Endowments
Department, Fort St. George,
Chennai - 600 009.

2. The Commissioner,
Hindu Religious and Charitable Endowments
(Administration) Department,
Nungambakkam High Road,
Chennai - 600 034.

3. The Joint Commissioner,
Hindu Religious and Charitable Endowments
(Administration) Department,
SONA Plaza, 1st Floor,
No.1254, R.D.O. Salai,
Sathuvachary, Vellore - 9.

4. The Assistant Commissioner,
Hindu Religious and Charitable Endowments
(Administration) Department,
SONA Plaza, 1st Floor,
No.1254, R.D.O. Salai,
Sathuvachary, Vellore - 9.

5. The Executive Officer,
Arulmighu Chelliamman Thirukoil,
River Palar Bed,
Vellore - 632 004.

+1cc to Mr.S.Subramanian, Advocate Sr.No.37617

+1cc to Government Pleader SR.No.36675

+1cc to MR.K.Sridhar, Advocate sR.No.36478

VGII

sm:21.6.2018

W.P.No.36163 of 2016