



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

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W.P. (MD) No.16983 of 2018
and
W.M.P (MD) .No.14964 of 2018

Ramanan

... Petitioner

vs.

1. The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Sivagangai.
2. The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Virudhunagar.
3. The Executive Officer/Fit Person,
Veera Hanumar Temple,
Srivilliputhur,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records pertaining to the impugned order passed by the second respondent vide in his proceedings Se.Mu.Na.ka.No.2061/2007-8/AA3 dated 26.11.2007 and consequential impugned order passed by the third respondent dated 04.08.2017 and 18.05.2018 and quash the same as ultra vires.

For Petitioner	: Mr.S.Madhavan
For R-1 & R-2	: Mr.A.Muthukaruppan Additional Government Pleader
For R-3	: Mr.P.Mahendran

O R D E R

The writ petition is filed challenging the order passed by the second respondent vide in his proceedings SE.Mu.Na.Ka.No.2061/2007-8/AA3, dated 26.11.2007.

2. According to the respondents, although the order was passed as early as on 26.11.2007, the petitioner has successfully prevented the fit person from assuming charge and therefore, the



respondents were constrained the issue further directions on 04.08.2017 and 18.05.2018 informing the petitioner that if any untoward incident happened in the temple, he would alone be responsible.

3. According to the learned counsel for the petitioner, though the order was passed in the year 2007, the same was not made available and only after the demand of the petitioner, the same was furnished to him along with a letter dated 17.07.2018 and therefore, challenging the same the present writ petition is filed.

4. Be that as it may, the learned counsel appearing for the respondents would submit that there is an effective and alternative remedy available for the petitioner to approach the first respondent by way of filing a revision petition under Section 21-A of the HR & CE Act. In this regard the learned counsel for the respondents would rely on a decision of this Court reported in **2009(4) CTC 320 (T.Ramesh Babu vs. The Assistant Commissioner, Hindu Religious and Charitable Endowments, K.K.Nagar, Madurai-20 and other)**, and he would draw the attention of this Court in paragraph No.13, which reads as follows:-

"13. Section 21-A of the HR & CE Act provides a Revision to the Joint Commissioner against an order passed by the Assistant Commissioner. The Joint Commissioner is also vested with the powers to pass interlocutory orders, in view of sub-clause (4) of Section 21-A of the HR & CE Act. The aggrieved parties are entitled to lead evidence in support of their case and thereby factual adjudication of the matter would be possible in the hands of the Joint Commissioner. It is also possible for balancing the equities during the pendency of the proceedings. The Revisional jurisdiction before the Joint Commissioner is an effective and efficacious remedy. Therefore, I am of the view that the petitioner should be directed to avail the alternative remedy of Revision."

5. From the above order passed by this Court, it is clear that when an alternative remedy is available under the relevant Statute, the same has to be exhausted before approaching this Court by invoking its extraordinary jurisdiction under Article 226 of the Constitution of India. Therefore, there is a considerable force in the contention put forth on behalf of the respondents and in such view of the matter, this Court finds that the present writ petition is not maintainable, in view of the availability of effective and alternative remedy as provided under the HR & CE Act. Therefore, the Writ Petition is dismissed as not maintainable. However, it is open to the petitioner to invoke the



alternative remedy provided under the HR & CE Act, if the petitioner is so advised. No costs. Consequently, connected Miscellaneous petition is also dismissed.

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sd/-

Assistant Registrar (Writs)

/True Copy/

Sub Assistant Registrar (CS-I)

To

1. The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Sivagangai.
2. The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Virudhunagar.

+1cc to Mr.S.Madhavan, Advocate SR.No.79441
+1cc to Mr.P.Mahendran, Advocate SR.No.79427
+1cc to SPECIAL GOVERNMENT PLEADER, SR.No.79655

RMK

MK/RP/SAR 1/06.09.2018/3P/6C

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