



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated :26.09.2018

CORAM

WEB COPY

**THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
AND
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI**

W.A. (MD) No.1290 of 2018
and
C.M.P (MD) No.9123 of 2018

K.Chellathurai

.. Appellant/4th Respondent

Vs.

1. S.Rajasekaran
2. S.Prabaharan
3. Jegan

.. Respondents 1 to 3/
Petitioners 1 to 3

4. The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Tirunelveli.

5. The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Nagercoil,
Agasteeswaram Taluk,
Kanyakumari District.

6. Fit Person,
Arulmigu Narayanaswamy Temple,
South Thamaraikulam Village & Post,
Agasteeswaram Taluk,
Kanyakumari District.

.. Respondents 4 to 6 /
Respondents 1 to 3

Prayer : Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 31.05.2018 passed in W.P(MD)No.11575 of 2018 on the file of this Court.

Prayer in WP(MD)No. 11575/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari Mandamus calling for records relating to the impugned order dated 09/04/2018 passed in I.A.No.1 of 2017 in R.P.No.1 of



2008 by the first respondent and quash the same and consequentially direct him to implead the petitioners as parties in the revision petition in R.P.No.1 of 2008.

For Appellant : Mr.V.Meenakshi Sundaram for
Mr.R.Murugan
For R-1 to R-3 : Mr.J.Bharathan
For R-4 & R-5 : Mrs.J.Padmavathi Devi,
Special Government Pleader

JUDGMENT

[Judgment of the Court was delivered by PUSHPA SATHYANARAYANA, J.]

The fourth respondent in the writ petition has preferred the above writ appeal.

2. The main ground of attack in the appeal is that the order in the writ petition was passed without issuing notice to the appellant, who is the fourth respondent.

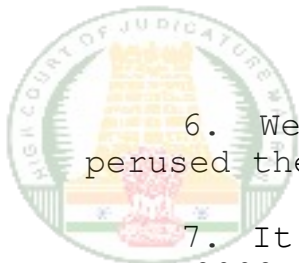
3. The brief facts of the case are as follows:

(i). The writ petition was filed by the respondents 1 to 3 herein to set aside the order dated 09.04.2018 made in I.A.No.1 of 2017 in R.P.No.1 of 2008 on the file of the Joint Commissioner, HR & CE Department, Tirunelveli. The said I.A.No.1 of 2017 was filed for impleading the respondents 1 to 3 in R.P.No.1 of 2008. Since it was dismissed, the writ petition was filed before this Court. The learned single Judge allowed the writ petition and ordered to implead the writ petitioners / respondents 1 to 3 and directed the Joint Commissioner, to dispose of R.P.No.1 of 2008, within a period of six months from the date of receipt of a copy of the order.

(ii) Aggrieved by said order, the appellant / fourth respondent has preferred the above writ appeal.

4. The learned counsel appearing for the appellant submitted that the respondents 1 to 3 had surrendered their rights to HR & CE Department. Pursuant to which, a Fit Person was also appointed. Therefore, having surrendered their rights, they may not have a right in the dispute.

5. In reply, the learned counsel appearing for the respondents 1 to 3 contended that even in the earlier round of litigation in W.P (MD)No.17692 of 20017, this Court directed the Joint Commissioner to dispose of R.P.No.1 of 2008, within a period of six weeks after giving notice to all the parties, who are interested. In fact, the respondents 1 to 3 are also party to the said writ petition. Therefore, impleading them now would not prejudice the appellant.



6. We have heard the submissions made on either side and perused the materials placed before us.

7. It is seen that R.P.No.1 of 2008 itself was filed in the year 2008 and the same is kept pending for more than one decade as the parties are at loggerheads by knocking the doors of this Court. Hence, we are inclined to give a direction to the Joint Commissioner, HR & CE Department, Tirunelveli, who is the fourth respondent herein to dispose of R.P.No.1 of 2008, within a period of six weeks from the date of receipt of a copy of this judgment and report compliance to this Court.

8. With the above direction, the writ appeal is disposed of. No Costs. Consequently, connected miscellaneous petition is closed.

9. Post after six weeks 'for reporting compliance'.

Sd/-

Assistant Registrar (Writs)

/True Copy/

Sub Assistant Registrar (CS-I)

To:

1. The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Tirunelveli.
2. The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Nagercoil,
Agasteeswaram Taluk,
Kanyakumari District.

Copy To:-

The Posting Clerk,
Judicial Posting,
Madurai Bench of Madras High Court,
Madurai.
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+ 1 CC TO Mr.R.MURUGAN, ADVOCATE IN SR No. 86648

PM

TE/VB/SKN/SAR-1 : 22/10/2018 : 3P/5C