

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.37009 of 2007

1 A.AYYANARAPPAN
2 K.SHANMUGAM
3 S.A.KANDASAMY
4 E.K.SOMU ..Petitioners

Vs

1 THE COMMISSIONER
HINDU RELIGIOUS AND CHARITABLE ENDOWMENT
DEPT. NUNGAMBAKKAM CHENNAI 34.
2 THE DEPUTY COMMISSIONER
HINDU RELIGIOUS AND CHARITABLE ENDOWMENT
DEPT. COIMBATORE. ..Respondents

Prayer:- This Writ Petition is filed, under the Article 226 of Constitution of India, to issue a writ of Certiorari, Calling for the entire records relating to the impugned order passed by the 1st respondent in his proceedings No.S.M.R.2/1999 (RC.17140/95) D2 dated 5.5.2006 and quash the same.

For Petitioners : Mr.C.Prakasam

For Respondents : Mr.M.Maharaja, Spl.G.P.
for HR & CE., for R1 and R2.

ORDER

This Writ Petition is filed challenging the suo motu Revision taken by the Commissioner, HR &CE Admn., Department, against the order dated 12.12.1994 of the Deputy Commissioner, HR & CE Admn Department, Coimbatore, in allowing O.A.Nos.44 and 45 of 1993 filed under Section 64(1) of the Act.

2. According to the learned counsel for the petitioners, the impugned order dated 05.05.2006, passed by the 1st respondent by invoking suo motu revision, cannot be sustainable under the law. Therefore, the said order is liable to be set aside.

3. The learned Special Government Pleader submits that some of the members in the petitioners community viz., Sengundha Mudhaliyar has approached the civil court by way of

filing suit in O.S.No.477 of 1990 before Sub Court, Erode, for the very same relief and the said suit was dismissed. It is further submitted that without disclosing the said facts relating to filing of suit, O.A.Nos.44 and 45 of 1993 has been filed by the petitioners before the 2nd respondent/Deputy Commissioner for the very same relief. As such, against the relief granted by the Deputy Commissioner, HR & CE Department, the Commissioner/2nd respondent, the 1st respondent/Commissioner, HR&CE, invoked suo motu revision invoking provisions under Section 69(2) of the H.R.&C.E. Act, and set aside the original order dated 05.05.2006. Therefore, the said order of suo motu revision setting aside the order passed in O.A.Nos.44 and 45 of 1993, is perfectly valid and there is no illegality or arbitrariness found to interfere with the same.

4. The learned Special Government Pleader submits that if the petitioners are aggrieved, they can approach the civil court, seeking remedy under Section 70 of the H.R.&C.E., Act and raise all grounds, subject to satisfying the limitation period, prescribed therein.

5. The learned counsel for the petitioner has agreed that as per Section 70 of the H.R.&C.E. Act, petitioner is having remedy to approach the civil court to assail the said order passed by the 1st respondent.

6. Recording the submission of the parties, the writ petition is dismissed. It is open to the petitioners to approach the civil court, if so advised. No costs.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

nvsri
To

1.THE COMMISSIONER
HINDU RELIGIOUS AND CHARITABLE ENDOWMENT
DEPT. NUNGAMBAKKAM CHENNAI 34.

2.THE DEPUTY COMMISSIONER
HINDU RELIGIOUS AND CHARITABLE ENDOWMENT
DEPT. COIMBATORE.

+1cc to the Government Pleader SR.87440

WP.No.37009 of 2007

RSI (CO)
CB(29/11/2019)