



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 30.07.2019

CORAM

THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

W.P.No.1799 of 2010 &
M.P.Nos.1 and 2 of 2010

N.Kulandaivadivelu

...Petitioner

Vs

1.The Commissioner,
H.R. & C.E. (Admn.) Department
Nungambakkam High Road,
Chennai - 34.

2.The Joint Commissioner,
Hindu Religious & Charitable Endowments
(Admn.) Department,
Coimbatore.

3.N.Venkatachalam

4.N.Balasubramani

5.K.Navaneedan

6.K.Veeramuthu

7.K.Selvaraj

...Respondents

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari to call for the records relating to the impugned suo motu proceedings of the second respondent herein i.e., the Joint Commissioner, H.R. & C.E., Coimbatore issued in O.A.No.50 of 1990, dated 18.12.1990 and quash the same as none-est in law.

For Petitioner : Mr.D.Rajagopal
For Mr.W.C.Thiruvengadam

For Respondents : Mr.M.Maharaja
Special Government Pleader for R1 & R2

Mr.S.Kadarkarai for R3 to R7



O R D E R

Heard Mr.D.Rajagopal, learned counsel, representing Mr.W.C.Thiruvengadam, learned counsel for the petitioner; Mr.M.Maharaja, learned Special Government Pleader for the respondents 1 and 2; Mr.S.Kadarkarai, learned counsel for the respondents 3 to 7 and perused the materials placed on record.

2. This Writ Petition has been filed challenging the suo-motu proceedings initiated by the second respondent, dated 18.12.1990, under Section 63(a) of the Hindu Religious and Charitable Endowments Act, 1959.

3. It is urged by the learned counsel for the petitioner that the Temple in dispute was already declared as a private Temple by the District Judge, Coimbatore in O.P.Nos.50 of 1930, dated 15.04.1933. The suo-motu proceedings initiated by the second respondent in the year 1979 was dropped on 18.06.1982. It is further submitted that the Division Bench of this Court in W.A.No.426 of 1999, set-aside the order initiating suo-motu proceedings to decide the character of the Temple on the ground that it was already declared as a private Temple.

4. Per contra, the learned Special Government Pleader and the learned counsel for the respondents would state that the suo-motu proceedings were initiated in the year 1990, but the present Writ Petition came to be filed after lapse of 20 years. It is further contended that the earlier suo-motu proceedings was not dropped on merits, but a liberty was given to the Authorities to gather evidence to decide the character of the Temple.

5. In the case on hand, it is not in dispute that the Temple was declared as a Private Temple in the earlier O.P.No.50 of 1930 on 15.04.1933. After the enactment of the present Act in the year 1959, suo-motu proceedings were initiated by the Joint Commissioner to decide the character of the Temple. Admittedly, the petitioner participated in the earlier suo-motu proceedings. It is also seen that in W.P.No.3584 of 1994, the learned Single Judge of this Court, by an order dated 12.03.2001, directed the respondents to furnish all the documents to enable the petitioner to participate in the suo-motu proceedings in O.A.No.50 of 1990 and a further direction was issued to the Authorities to pass final orders within a period of three months.

6. The learned counsel for the petitioner by placing reliance on the decision of the Division Bench of this Court



reported in Dharma Paripalana Sabha Vs. The Commissioner, HR & CE (Admn.) Dept. [2010 (1) CTC 147], submitted that a suo-motu proceedings cannot be initiated after lapse of decades.

7. In the instant case, it is seen that though the suo-motu proceedings came to be challenged in the year 1994, this Court in W.P.No.3584 of 1994, disposed of the Writ Petition, directing the Authorities to complete their enquiry within a period of three months and a further direction was issued to the respondents to furnish all the relevant documents. When the petitioner participated in the earlier suo-motu proceedings and accepted the decision in W.P.No.3584 of 1994, the present Writ Petition, cannot be entertained

8. However, it is an admitted fact that the Temple is being maintained by the petitioner and hence till a decision is taken by the second respondent with regard to the character of the Temple, the Authorities shall not interfere with the administration of the Temple. It is made clear that the petitioner shall co-operate for earlier disposal of the Original Application.

9. With the above observation and direction, the Writ Petition is disposed of. There is no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

r n s

To

1.The Commissioner,

H.R. & C.E. (Admn.) Department
Nungambakkam High Road,
Chennai - 34.

2.The Joint Commissioner,

Hindu Religious & Charitable Endowments
(Admn.) Department,
Coimbatore.

+2cc to Mr.D.Rajagopal Advocate, S.R.No.65330

+1cc to the Government Pleader, S.R.No.66459

NRJK(CO)

CB(10/09/2019)

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M.P.Nos.1 and 2 of 2010