

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2019

CORAM

THE HONOURABLE MR.JUSTICE K.K. SASIDHARAN
AND
THE HONOURABLE MR. JUSTICE P.D. AUDIKESAVALU
Writ Appeal No. 334 of 2019
&
C.M.P. No. 3169 of 2019

Arulmighu Vanabadrakali Amman Thirukovil,
rep. by its Hereditary Trustee,
Mrs.R. Vasantha
Thekkampatti,
Mettupalayam Taluk,
Coimbatore District - 641 305. ..Appellant

Vs.

1. T. Thirunavukkarsu
2. The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department,
Coimbatore - 641 018.
3. The Assistant Commissioner/
Executive Officer,
Arulmighu Vana Pathra Kaliyamman
Kovil,
Thekkampatti,
Mettupalayam Taluk,
Coimbatore District - 641 305. ..Respondents

Prayer: Writ Appeal filed under clause 15 of Letters patent Act against the order dated 07.01.2019 passed in W.M.P. No. 39935 of 2018 in W.P. No. 34367 of 2018.

Prayer in W.M.P.39935 of 2018:- Petition under Article 226 of the Constitution of India, praying to stay the operation of suspension order passed by the 3rd respondent in her proceedings dated 16.10.2017 pending disposal of the W.P.34367 of 2018.

Prayer in W.P.34367 of 2018:- Petition under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records of the 3rd respondent in her proceedings dated 16.10.2017 and quash the same as illegal.

For Appellant :: Mr.S. Subbiah
Senior Counsel
M/s.Elizabeth Ravi

For Respondents:: Mr.M. Radhakrishnan for
Mr.R. Ganesh Babu for R1
Mr.M. Maharaja,
Special Government Pleader
(HR & CE) for R2 & R3

J U D G M E N T

(Judgment of the Court was delivered by K.K. SASIDHARAN,J.)

The learned Single Judge, in the writ petition filed by the 1st respondent in W.P. No. 34367 of 2018 challenging the proceedings initiated against him, passed an interim order suspending the order of suspension without issuing notice to the appellant. Since the learned Single Judge also made certain observations, which would go to the root of the matter, the appellant has come up with this intra-court appeal with a contention that notice should have been issued by the learned Single Judge before passing such an order at the time of admission.

2. We have heard Mr.S. Subbiah, learned Senior Counsel for the appellant. We have also heard Mr. M. Radhakrishnan, learned counsel for the 1st respondent.

3. The challenge in the writ petition in W.P. No. 34367 of 2018 was to the order dated 16.10.2017 placing the 1st respondent under suspension. The 1st respondent along with the writ petition also filed an interim application for stay of the order of suspension. The learned Single Judge, without issuing notice to the authority, who was instrumental in passing the order of suspension, allowed the said interim application.

4. The learned Single Judge, in paragraph No.4 of the order dated 07.01.2019 accepted the submission made on behalf of the 1st respondent that he should have been transferred to some other Department or some other post instead of placing him under suspension. The learned Single Judge further observed that

suspension being prolonged, it should be revoked.

5. We are of the view that the application for interim relief in the subject case should have been taken up after filing counter by the appellant.

6. We therefore set aside the order passed by the learned Single Judge dated 07.01.2019 and remit the matter for fresh consideration. We make it clear that we have not considered the merits of the matter and it is open to the learned Single Judge to decide the matter on merits after filing counter by the appellant.

7. The intra-court appeal is allowed as indicated above. No costs. Connected C.M.P. is closed.

nv

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1. The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department,
Coimbatore - 641 018.
2. The Assistant Commissioner/
Executive Officer,
Arulmighu Vana Pathra Kaliyamman
Kovil,
Thekkampatti,
Mettupalayam Taluk,
Coimbatore District - 641 305.

+1cc to M/s.Elizabeth Ravi, Advocate, SR.No.23710/19
+1cc to Mr.R.Ganesh Babu, Advocate, SR.No.23703/19
+1cc to the Govt.Pleader, Vide Sr.No.25426/19

W.A. No. 334 of 2019

Kak(07/05/2019)