WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **06.06.2019**

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.12853 of 2019

Saravanamuthu ...Petitioner

-Vs-

The Commissioner,
Tamil Nadu Hindu Religious and
Charitable Endowment,
Nungambakkam,
Chennai - 34. ...Respondents

Prayer: Writ Petition - filed under Article 226 of Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records of the respondent dated 04.03.2019 in R.C.No.4682/19D2, quash the same as the same is arbitrary, ultra vires, contrary to law and consequentially direct the respondent to number and dispose of the appeal filed under Section 54(4) of the Act 22/1959 in respect of A/M Mahalakshmi temple, Sendurai, Natham, Dindigul District.

For Petitioner : Mr.R.G.Shankar Ganesh
For Respondents : Mr.R.Murugan, AGP

ORDER

The prayer in this writ petition is for a Writ of Certiorarified Mandamus, calling for the records of the respondent dated 04.03.2019 in R.C.No.4682/19D2, quash the same as the same is arbitrary, ultra vires, contrary to law and consequentially direct the respondent to number and dispose of the appeal filed under Section 54(4) of the Act 22/1959 in respect of A/M Mahalakshmi temple, Sendurai, Natham, Dindigul District.

2.Heard Mr.R.G.Shankar Ganesh, learned counsel appearing for the petitioner and Mr.R.Murugan, learned Additional Government Pleader appearing for the respondent.

3.The petitioner had given an application under Section 54(3) of Tamil Nadu Hindu Religious Charitable and Endowment Act, on the principle of next in the line of succession to be declared as a

https://hcservices.ecourts.gov.in/hcservices/

hereditary trustee to administer the temple called Arulmigu Mahalakshmi temple, Sendurai, Natham, Dindigul District. However the said application was dismissed by the Joint Commissioner, H.R. & C.E., Madurai by an order dated 15.03.2016. Aggrieved over the said rejection order passed by the Joint Commissioner, the petitioner preferred an appeal under Section 54(4) of the said Act and engaged a counsel at Chennai for filing of the appeal. The appeal seems to have been filed in time. However, subsequently for rectifying mistakes, it seems to have been returned. However, the counsel could not represent the same in time.

4.Even though the petitioner in this regard has made repeated contact over phone to the counsel, he had given lame excuses and only later, the petitioner came to know that no progress has been shown in this regard by the learned counsel for the petitioner before the Commissioner appeal. Thereafter, the petitioner took steps to take back the returned papers and then only, it was represented after rectifying the mistakes before the Commissioner appeal and in the meanwhile, there has been a delay of 967 days in representing the appeal memorandum, which was made on 25.12.2018.

5.The said represented appeal memorandum has been rejected by the present impugned order of the Commissioner i.e., the first respondent on 04.03.2019 only on the ground of huge delay in representing the appeal papers.

6.I have heard the learned counsel appearing for the petitioner as well as the learned Additional Government Pleader appearing for the respondent and have gone through the impugned order and perused the materials filed before this Court.

7.Since the delay occurred for representation is attributable only to the counsel appeared for the petitioner before the Commissioner appeal and in this regard, the petitioner could not be expected to give reason for every day delay and if at all any delay caused in filing the appeal, some reasons can be attributed against the petitioner. But, the representation of the case papers is mainly due to the counsel concerned and therefore, in this regard, the petitioner cannot be blamed.

8.In that view of the matter, this Court is of the view that the reasoning assigned by the Commissioner in the impugned order may not be justifiable. Accordingly, this Court is inclined to accept the plea raised by the petitioner in this writ petition.

9.In the result, the impugned order is quashed and the matter is remitted back to the first respondent Commissioner, who shall entertain the appeal if it is otherwise in order and decide the same on merits and in accordance with law.

https://hcservices.ecourts.gov.in/hcservices/

10.With this direction, this writ petition is ordered accordingly. No costs.

Sd/-

Assistant Registrar

WEB COPY

// True Copy //

Sub Assistant Registrar(CS)

Arul

To

The Commissioner,
Tamil Nadu Hindu Religious and
Charitable Endowment,
Nungambakkam,
Chennai - 34.

+1cc to M/Sr.R. G.Shankar Genesh, Advocate,Sr.No. 67125
+1cc to M/S SPECIAL GOVERNMENT PLEADER, Sr.No.67781

Order made in
W.P.(MD)No.12853 of 2019
Dated:
06.06.2019

BUC(CS)(19/06/2019) 3P/4C

https://hcservices.ecourts.gov.in/hcservices/