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W.A.(MD) No.826 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.08.2019

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

AND

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.A. (MD) No.826 of 2019

&

C.M.P. (MD) No.7093 of 2019

M.Kulathuran Pattar

.. Appellant/Petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable
Endowments Department,
Nungambakkam,
Chennai - 600 034.

2.The Executive Officer,
Arulmighu Subramania Swamy Temple,
Thiruchendur,
Tuticorin District.

.. Respondents/Respondents

Prayer:- Writ Appeal is filed under Clause 15 of Letters Patent, against the order dated 01.03.2019, passed in W.P.(MD)No.3084 of 2019.

Prayer in WP(MD)No.3084 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the 2nd respondent herein to consider and dispose the petitioners application dated 13/08/2018 to equally apportion the dates for performing pooja at Sri Shanmuga Shannathi in Arul migu Subramaniya Swamy Temple in the turn the deceased Ramasamy Pattar in the light of the judgment and decree dated 12/06/2018 made in O.S.No.160 of 2017 on the file of the District Munsif Court, Tiruchendur.

For Appellant : Mr.Ajmalkhan
Senior Counsel
for M/s.Ajmal Associates

For R1 : Mr.VR.Shanmuganathan
Special Government Pleader



For R2

: Mr.M.Muthugeethaiyan

JUDGMENT

(Judgment of the Court was made by K.RAVICHANDRABAABU, J.)

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This Writ Appeal is directed against the order of the Writ Court, dated 01.03.2019, made in W.P.(MD)No.3084 of 2019.

2.The appellant is the Writ Petitioner. He approached the Writ Court and sought for a Mandamus, to direct the second respondent to consider and dispose his application dated 13.08.2018, to equally apportion the dates for performing Pooja at Sri Shanmugar Shannathi in Arulmigu Subramaniya Swamy Temple, Tiruchendur, in the turn of the deceased Ramasamy Pattar, in the light of the judgment and decree dated 12.06.2018, made in O.S.No.160 of 2017, on the file of the District Munsif Court, Tiruchendur. In effect, the writ petitioner sought for certain rights to perform Poojas at Sri Shanmugar Shannathi in Arulmigu Subramaniya Swamy Temple, Tiruchendur.

3.The Writ Court, after hearing both the parties, found that this is a matter, which needs to be adjudicated, by filing an appropriate application under Section 63 (e) of the Hindu Religious and Charitable Endowments Act [hereinafter referred to as 'the Act']] before the competent jurisdictional Joint Commissioner. Therefore, the Writ Court directed the Writ Petitioner to move the jurisdictional Joint Commissioner, H.R. & C.E. Department, by filing an appropriate application under Section 63 (e) of the Act, by arraying all the interested parties as respondents. Granting such liberty, the Writ Petition was closed.

4.Challenging the said order, the present Writ Appeal is filed before us.

5.We have heard Mr.Ajmalkhan, learned Senior Counsel appearing for the appellant; Mr.VR.Shanmuganathan, learned Special Government Pleader appearing for the first respondent; and Mr.M.Muthugeethaiyan, learned Standing Counsel appearing for the second respondent Temple.

6.Perusal of the facts and circumstances and the order passed in the Writ Petition would show that no case is made out to interfere with the order passed by the Writ Court, since the Writ Petitioner was only directed to approach the jurisdictional Joint Commissioner, H.R. & C.E. Department, by filing an appropriate application under Section 63 (e) of the Act, so as to enable the said competent authority to decide the issue.



7.The learned Senior Counsel appearing for the appellant contended that since the second respondent viz., the Executive Officer of the Temple himself is in the cadre of Joint Commissioner, he can be directed to consider the appellant's/petitioner's application.

8.We do not think that such a direction is necessary, more particularly, when a jurisdictional Joint Commissioner of H.R. & C.E. Department, in respect of the subject matter Temple, is already in Office at Tirunelveli. Therefore, it is for the appellant/writ petitioner to approach the authority and file an application under Section 63 (e) of the Act, so as to enable him to decide the issue after hearing all the interested parties. Accordingly, this Writ Appeal is disposed of, by confirming the order dated 01.03.2019, passed by the Writ Court, in W.P.(MD) No.3084 of 2019. However, by issuing further directions as stated hereunder:-

(a) The appellant/Writ Petitioner shall file an application under Section 63 (e) of the Act before the Regional Joint Commissioner, H.R. & C.E. Department, Tirunelveli, within a period of two weeks from the date of receipt of a copy of this judgment.

(b) On receipt of such an application, the said authority shall consider the same and pass orders on merits and in accordance with law, after hearing all the parties concerned. Such an exercise shall be done by the said authority within a period of 12 weeks from the date of receipt of such application.

No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar()

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The Commissioner,
Hindu Religious and Charitable
Endowments Department,
Nungambakkam,
Chennai - 600 034.



2.The Executive Officer,
Arulmighu Subramania Swamy Temple,
Thiruchendur,
Tuticorin District.

3. The Regional Joint Commissioner,
H.R. & C.E. Department, Tirunelveli.

+1CC TO MR.AJMAL ASSO., Advocate Sr. No. 80354

+1CC TO MR.M.MUTHUGEETHAYAN, Advocate Sr. No. 79919

JUDGMENT IN
W.A. (MD) No.826 of 2019
&
C.M.P. (MD) No.7093 of 2019
06.08.2019

DB (CO)

TR (29.08.2019) 4P 6C