



WEB COPY

W.P(MD)No.24815 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P (MD) No.24815 of 2019

and

WMP (MD) Nos.21399 & 21401 of 2019

Ponnusamy

.. Petitioner

Vs.

- 1.The Commissioner,
Hindu Religious and Charitable Endowment Board,
No.119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai - 34.
- 2.The Joint Commissioner,
Hindu Religious and Charitable Endowment Board,
Sivagangai District,
Sivagangai.
- 3.Aruppukottai, Puliyampatti - Thirunagaram
Saliyar Mahajana Paribalana Sabaikku Pathiyapatta
Arulmigu Mahaliamman Vagaiyara
Thirukovilgal
rep. through its Trustee
N.A.Subramaniam

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus calling for the records of the impugned orders of the 1st respondent in RC.No.40396/2019/D2 dated 14.10.2019 and the consequential notice of the 3rd respondent dated 07.11.2019 and quash the same and further direct the 1st respondent to number the appeal and the stay petition filed along with the appeal and dispose of the same as directed by this Court in WA(MD)No.490/2018 dated 27.3.2018.

For Petitioner : Mr.S.Natarajan

For R1 & R2 : Mr.V.R.Shanmuganathan
Special Government Pleader

For R3 : Mr.P.Ganapathisubramanian

ORDER

Mr.V.R.Shanmuganathan, learned Special Government Pleader, takes notice on behalf of the respondents 1 and 2. Mr.P.Ganapathisubramanian, learned counsel takes notice on behalf of the third respondent. By consent, the writ petition is taken up for final disposal at the stage of admission itself.



2.The petitioner has challenged the fixation of fair rent by way of filing a writ petition in WP(MD)No.11142 of 2017. This Court, by its order dated 20.06.2017, dismissed the writ petition for non exhaustion of alternative remedy. Aggrieved over the same, the petitioner preferred a writ appeal in W.A(MD)No.490 of 2018. The Hon'ble Division Bench, has directed the petitioner herein to deposit a sum of Rs.25,000/- and further directed the first respondent therein to entertain the appeal, without insisting on limitation period and give a disposal on merits and in accordance with law.

3.It appears that there is some delay in depositing the conditional amount and therefore, further time was given vide order dated 23.11.2018 in CMP(MD)No.8283 of 2018. However, while disposing of the stay petition, the first respondent, by its order dated 14.10.2019, has directed the petitioner to deposit the entire arrears, in compliance with Section 34A(3) of the HR & CE Act, 1959. Aggrieved over the same, the petitioner is before this Court.

4.The Hon'ble Division Bench has given a specific direction, directing the petitioner to deposit Rs.25,000/- to the credit of the second respondent. It is not made clear whether the condition of depositing Rs.25,000/- is in lieu of pre deposit contemplated under Section 34A(3) of the said Act or not. However, this Court consider that the condition is in lieu of pre deposit, specified under Section 34A(3) of the Act. In that view of the matter, the first respondent has to dispose of the appeal, without insisting on deposit of arrears. Therefore, the impugned order passed by the first respondent in RC.No.40396/2019/D2 dated 14.10.2019 is set aside and a direction is given to the first respondent to dispose of the main appeal itself within a period of four weeks from the date of receipt of a copy of this order.

5.The writ petition is disposed of accordingly. No costs. Consequently, WMP(MD)Nos.21399 & 21401 of 2019 are closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The Commissioner,
Hindu Religious and Charitable Endowment Board,
No.119, Uthamar Gandhi Salai,
Chennai - 34.

<https://hcservices.hc.madras.gov.in/hcservices/>



2.The Joint Commissioner,
Hindu Religious and Charitable Endowment Board,
Sivagangai District, Sivagangai.

+1 CC to Mr.S.NATARAJAN, Advocate (SR-100706[F] dated 22/11/2019)

+1 CC to Mr.P.GANAPATHI SUBRAMANIAN, Advocate (SR-100787[F] dated 22/11/2019)

+1 CC to SPL GP (SR-101151[F] dated 25/11/2019)

W.P (MD) No.24815 of 2019
22.11.2019

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