

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2020

CORAM

THE HON'BLE MR. JUSTICE C. V. KARTHIKEYAN

W.P. No. 4883 of 2019
and
W.M.P. No. 5567 of 2019

T.Mani

... Petitioner

-vs-

1. The Commissioner,
Hindu Religious & Charitable Endowments Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam, Chennai - 600 034.
2. The Joint Commissioner,
Hindu Religious & Charitable Endowments Department,
Villupuram Division,
O/o. The Joint Commissioner,
Hindu Religious & Charitable Endowments Department,
Villupuram District.
3. G. Manoharan ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the entire records pertaining to the order dated 26.10.2018 of the 1st respondent made in R.C.No.6713/2018 D2 and quash the same and direct the 1st respondent to entertain the above appeal on merits.

For Petitioner :Mr.V.Srikanth

For Respondents:Mr.M.Karthikeyan, (For R1 & R2)
Special Government Pleader (HR & CE)
:Mr.Gunaseelan (For R3)

O R D E R

The writ petition has been filed in the nature of writ of certiorarified mandamus, calling for the records relating to the order dated 26.10.2018, passed by the 1st respondent namely the Commissioner, HR & CE, Chennai in RC No.6713/2018 D2 and to set aside the same and a direction to the said respondent to take on file the appeal which was pending on merits.

2. The entire issue relates to Om Muneeswarar Temple, Polur Taluk, Tiruvannamalai District. The petitioner claims that his paternal grandfather had found idol of Om Muneeswarar while clearing the bushes. The deity had been installed and a Temple had been built. The petitioner's father later passed away in the year 1976 and the petitioner claims that he is the Hereditary Trustee. However, unfortunately the 3rd respondent Mr.C.Manoharan, has been recognized as the Hereditary Trustee by HR & CE Department. Questioning the said order, the petitioner had originally WP.No.3720 of 2017. However, since the impugned order was also an appealable order, granting liberty to prosecute the appeal which had been first filed, the writ petition was dismissed as withdrawn by this Court, dated 07.12.2018.

3. The petitioner went back to the Commissioner, HR & CE, who is the 1st respondent herein. But, there was a delay of 314 days in filing the appeal. Therefore, the petitioner filed O.A.No.11 of 2015, to condone the delay of 314 days in filing the appeal. The petitioner and his Advocate, for the reasons best known to them avoided the hearing before the Commissioner, HR & CE Department. The said official had granted four adjournments and opportunity for hearings. Thereafter, he had sent notice to the counsel for the petitioner herein. That step is now being questioned by Mr.V.Srikanth. It is however to be mentioned that when a counsel files vakalat on behalf of any client, subsequent notices pending proceedings to the counsel is always deemed to be sufficient notice. Therefore, holding that service was deemed, the 1st respondent proceeded to hear O.A.No.11 of 2015 and dismissed the same by order dated 26.10.2018. That order is impugned before this court.

4. Heard arguments of the learned counsel for the petitioner and the learned counsel for the respondent also.

5. It would be in the interest of all the parties, not just the petitioner and the 3rd respondent but also any successor in interest, that an order is passed on merits. The impugned order is therefore set aside. The Commissioner, HR & CE Department, Chennai is requested to once again hear R.C. No.6713 of 2018.

6. In order to enable the said official to heard the matter in its proper perspective, a direction is issued to the petitioner and to the 3rd respondent Mr. Manoharan, S/o. Govindasamy, residing at No.26, V.S.Pilliyarkoil Street, Polur, Tiruvannamalai District, to be present at every hearing date. In the first instance, the petitioner may appear before the said Commissioner, HR & CE Department on 06.03.2020 and thereafter, also appear either with his advocate or without his advocate, but he should appear on every hearing date as determined by the said official. Thereafter, upon hearing the necessary parties, the Commissioner may pass orders on the application seeking condonation of delay of 314 days in filing

the appeal. The said order may be passed within a reasonable period of time. It is hoped that the authority would pass orders in R.C.No.6713 of 2018, by 30.04.2020.

7. With the above observation, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

To

1. The Commissioner,
Hindu Religious & Charitable Endowments Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam, Chennai - 600 034.
2. The Joint Commissioner,
Hindu Religious & Charitable Endowments Department,
Villupuram Division,
O/o. The Joint Commissioner,
Hindu Religious & Charitable Endowments Department,
Villupuram District.

+1 cc to Special Government Pleader, sr.14878

+1 cc to Mr.V.Srikanth, Advocate, sr.14615

+1 cc to Mr.S.Gunaseelan, Advocate, sr.14105

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