



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.09.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.12536 of 2020

and

W.M.P. (MD)No.10700 of 2020

1.Poosari Sokkan

2.Periyasamy

... Petitioners

Vs.

1.The Commissioner,
Tamil Nadu Hindu Religious Charitable
Endowments Department,
Chennai.

2.The Joint Commissioner,
Tamil Nadu Hindu Religious Charitable
Endowments Department,
Madurai.

3.V.Sooriyan

4.V.Periyakaruppan

5.V.Karuppu

6.V.Arumugam

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining the impugned order in R.C.No.7958/2018D2 dated 24.12.2019 in O.A.No.2/2007 dated 27.10.2016 issued by the 1st respondent and quash the same, condoning delay filing the above appeal and consequently direct the 1st respondent to take the petitioner's appeal on file of the 1st respondent.

For Petitioners : Mr.R.Sundar

For Respondents : Ms.J.Lakshmi Prasanna,
Government Advocate for R1 & R2.

O R D E R

Heard the learned counsel appearing for the writ petitioners and the learned Government Advocate appearing for the first and second respondents. Considering the nature of relief to be granted



in this writ petition, notices to the private respondents are dispensed with.

2.The writ petitioner had suffered an order dated 27.10.2016 in O.A.No.2 of 2007 at the hands of the Joint Commissioner, Hindu Religious Charitable and Endowments Department, Madurai. Questioning the same, the petitioner filed an appeal before the first respondent. The appeal was not filed in time. There was delay. In order to condone the same, the petitioner took out an application for condonation of the delay of 395 of days in filing the appeal petition. The Commissioner by the impugned order had dismissed the said petition as not maintainable in view of the order passed by the Hon'ble Supreme Court in Civil Appeal No.4582 of 2019 (Ganesan Rep. By its Power Agent G.Rukmani Ganesan v. The Commissioner, The Tamil Nadu Hindu Religious and Charitable Endowments Board and Others). In the said judgment, the Hon'ble Apex Court had authoritatively laid down that Section 5 of the Limitation Act will not be applicable as per the scheme of the Tamilnadu Hindu Religious and Charitable Endowments Act, 1959. Therefore, the order impugned in this writ petition is sustained. The writ petition is dismissed. However, it is open to the Commissioner to exercise his *suo motu* power under Section 69(2) of the Act, if he is so satisfied. Further, the order now passed will not prejudice the other remedies open to the petitioners herein.

3.With these observations and liberty, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Ias

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

1.The Commissioner,
Tamil Nadu Hindu Religious Charitable
Endowments Department,
Chennai.

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



2.The Joint Commissioner,
Tamil Nadu Hindu Religious Charitable
Endowments Department,
Madurai.

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+1 CC to SGP (SR-18231[F] dated 28/09/2020)

W.P. (MD) No.12536 of 2020

24.09.2020

NR (06.10.2020) 3P 4C