IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.4149 of 2010 &
MP. No.1 of 2010

S.R.M.Ramamurthi Poosari … Petitioner

Vs.

1.The Secretary to Government
Hindu Religious and Charitable Endowments Department,
Fort St.George, Chennai
2.The Commissioner
Hindu Religious and Charitable Endowments Department,
Nungambakkam High Road, Chennai-600024
3.The Joint Commissioner
Hindu Religious and Charitable Endowments Department,
Sivagangai
4.The Executive Officer,
Arulmigu Mariamman Thirukoil,
Irrukangudi, Sattur Taluk, Virudhunagar District.
…Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of certiorarified mandamus calling for the records pertating to proceedings in Na.Ka.No.24881/09/a2 dated 11.06.2009 on the file of the Commissioner, HR&CE Department, the second respondent herein and quash the same and direct him to conduct den ova proceedings after giving this petitioner an opportunity to take part in the proceedings and also to take into consideration of the vouchers recovered.

For Petitioner : Mr.D.R.Sivakumar

For Respondents : Mr.R.Venkatesh,
Government Advocate for R1 to R3
No appearance for R4

ORDER

On 02.02.2021, this Court passed the following order:

R4/Executive Officer, Arulmigu Mariamman Koil, Irukkangudi, Sattur Taluk Virudhunarar District has filed a counter dated 11.01.2021, wherein at paragraph 5 it is stated as follows:

> 5. It is further respectfully submitted that after reopening of the lock and seal of the erstwhile office premises, this respondent came to know that with respect to the averments made in the para 10 of the affidavit more particularly that the said vouchers could not be taken into account during the audit, earlier there was an election dispute between the erstwhile hereditary trustee of the temple, necessitating keeping of the office records in the almirah under lock and seal. Hence this respondent was not in a position to submit the said voucher earlier. Hence, at present these vouchers will be sent for audit afresh and thereafter the report will be forwarded to the Commissioner'

2. Mr.R.Venkatesh, learned Government Advocate, would state that the additional evidence found would have a repercussion on the computation in the impugned order and hence R4 may be permitted to audit and verify the same and amend the impugned order consequentially, if necessary.

3. For the aforesaid purpose, the petitioner will appear before R4 on 11.02.2021, at 10.30 a.m. without expecting any further notice in this regard. With the participation of the petitioner, R4 shall audit and verify the records in the almirah and make a report within a period of one week. The report shall be forwarded to the Commissioner immediately and a consequential order be passed before the next date of hearing.

4. List on 12.03.2021 for production of orders. Since the matter is a decade old, priority be given to complete this exercise, as the Court will not be inclined to extend the time frame set out above under any circumstances.

2. Pursuant to the aforesaid order, Mr.R.Venkatesh, learned Government Advocate would state that the Commissioner has passed order dated 11.03.2021 as a result that the impugned order is liable to be set aside. A memo has been filed to this effect by the learned Special Government Pleader, that states as follows:

'This Writ Petition was filed by the Petitioner, praying to issue, "a Writ of Certiorarified Mandamus calling for the records pertaining to proceedings in Na.Ka.No.24881/09/a2 dated 11.06.2009 on the file of the Commissioner, HR & CE Dept. The Second Respondent herein and to quash the same and direct him to conduct denova proceedings after giving this Petitioner an opportunity to take part in the proceedings and also to take into consideration of the vouchers recovered and to pass such other consideration of the vouchers recovered and to pass such other order or orders as this Hon'ble Court may deem fit and proper in view of the above situation and thus render justice".

As per the Commissioner's letter dated Na.Ka.No.24881/2009/A2 Dated 11.06.2009, after verifying the Audit for Fasli 1392-1393, since one C.R.Muthuraman Poosari had caused financial loss of Rs.4,07,832-72 to the temple, a surcharge proceedings was initiated and the Petitioner was directed to pay the above said amount. Vouchers amounting to Rs.2,70,474-75 was not audited previously and the same was submitted for fresh consideration. Hence, the same can be subtracted from the initial sum and the balance amount of Rs.1,37,348-97 and Rs.5,079-25 in total Rs.142428-22 can be retrieved from the Petitioner as by a fresh proceedings along with the interest. Hence, denavo proceedings would be initiated against the Petitioner for the balance sum to be paid by him.

Therefore, it is humbly prayed that the Hon'ble Court may be pleased to accept the Memo.'

3. The impugned order dated 11.06.2009 is thus set aside and as a consequence of order dated 11.03.2021, the respondent is at liberty to continue and complete proceedings de novo within a period of six weeks from today.

4. This writ petition is disposed in the above terms. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Secretary to Government
Hindu Religious and Charitable Endowments Department,
Fort St.George, Chennai
2.The Commissioner
Hindu Religious and Charitable Endowments Department,
Nungambakkam High Road, Chennai-600024
3.The Joint Commissioner
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4.The Executive Officer,
Arulmigu Mariamman Thirukoil,
Irrukangudi, Sattur Taluk, Virudhunagar District.

+1 cc to Government Pleader, SR.No16491.

W.P. No.4149 of 2010 &
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PCH(CO)
NS(03/05/2021)