



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 16.06.2021

CORAM

WEB COPY

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and
THE HON'BLE MS.JUSTICE R.N.MANJULA
W.A.Nos.1774 and 1776 of 2019
and C.M.P.No.12027 of 2019

Vishwa Hindu Vidya Kendra,
Rep. by its President,
S.Vedantam,
No.43, Ramanujam Street,
T.Nagar, Chennai - 600 017.

.. Appellant in both appeals

Vs

- 1.The Commissioner,
Hindu Religious and Charitable Endowment
Department, Nungambakkam, Chennai - 600 034.
 - 2.The Joint Commissioner,
Hindu Religious and Charitable Endowment
Department, Tirunelveli.
 - 3.Incorporated and Unincorporated Devaswoms,
now known as Kanyakumari District Temples
Suchindrum, represented by its
Executive Officer/Joint Commissioner & Takkar,
Suchindrum - 629 704,
Kanyakumari District.
- .. Respondents in both appeals

Appeals filed under Clause 15 of the Letters Patent against the order dated 26.02.2019 made in W.P.Nos.15531 and 15532 of 2016.

*Writ petition filed under Article 226 of the constitution of India Praying for issuance of a writ of certiorari calling for the records relating to the common order dt 28.3.2016 passed in R.P. No.80/2016-D2 on the file of the 1st respondent herein and to quash the same.

For Appellant

(in both writ appeals): Mr.Sathish Parasaran, Sr. Counsel
for Mr.N.Ganesh

For Respondents

(in both writ appeals): Mr.S.John J.Raja Singh
Government Counsel
Mr.S.Arumugam for R1 and R2

Ms.Hema Sampath, Sr. Counsel
for Ms.R.Meenal for R3



COMMON JUDGMENT
(Delivered by M.M.SUNDRESH, J.)

The appeals before us lie in a very compass. During the pendency of the proceedings initiated invoking Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, treating the appellant as alleged encroachers. Applications have been filed seeking to examine the witnesses on behalf of the appellant through the Commissioner by taking note of their position and age. The said request was rejected and confirmed in revision. The learned Single Judge, in turn, concurred with the views expressed. Challenging the same, the present appeals are before us.

2. Mr.Sathish Parasaran, learned Senior Counsel appearing for the appellant would only contend that considering the age of the witnesses, the cross examination need not be done in person by issuing summons.

3. Ms.Hema Sampath, learned Senior Counsel appearing for the contesting respondent submitted that what is required is the proof affidavit and liberty may be given in the event of the contesting respondent seeking to cross examine the aforesaid witnesses through video conferencing.

4. The proceedings have been initiated in the year 2012. On this issue, we do not wish to keep the appeals pending as the final orders are yet to be passed. In such view of the matter, the writ appeals stand disposed of giving liberty to the appellant to file proof affidavit if they want to rely upon the evidence of two witnesses viz., Saroja Thambi and Jayanthi Menon on their side. If they desire to do so, such proof affidavit will have to be filed within a period of four weeks from the date of receipt of a copy of this judgment duly with the documents sought to be relied upon, preferably, the original copies. Thereafter, the official respondents are directed to give an opportunity to the contesting respondent to cross examine the aforesaid witnesses through video conferencing. Taking note of the long pendency of the proceedings for nearly a decade, we direct the second respondent to conclude the proceedings within a period of twelve weeks from the date of receipt of a copy of this judgment. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mmi/ssm



To

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

2. The Joint Commissioner,
Hindu Religious and Charitable Endowment
Department,
Tirunelveli.

3. The Executive Officer/Joint Commissioner & Takkar,
Incorporated and Unincorporated Devaswoms,
now known as Kanyakumari District Temples
Suchindrum - 629 704,
Kanyakumari District.

+1 cc to Government Pleader, High court Madras. Sr.No.28458
+2ccs to Ms.R.Meenal Advocate, Advocate SR.No.28165 & 28166
+4ccs to Mr.N.Ganesh, Advocate SR.No.28174 & 28175

W.A.Nos.1774 and 1776 of 2019

AK II(CO)
B.VC(26.07.2021)