BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 25.02.2021

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THE HON'BLE MR.JUSTICE V.PARTHIBAN

W.P.(MD) No.3713 of 2021

and

W.M.P.(MD)No.2981 of 2021

K.Ganesan ... Petitioner

-vs-

1.The Joint Commissioner,
Hindu Religious Charitable Endowment Board,
Tirunelveli,
Tirunelveli District.

2.The Assistant Commissioner,
Hindu Religious Charitable Endowment Board,
Tirunelveli,
Tirunelveli District.

3.The Executive Officer cum Fit Person,
Arulmigu Chockalinga Swamy Thirukovil,
Thiruvenkadam,
Thiruvenkadam Taluk,
Tenkasi District. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus directing the respondents to permit the petitioner to participate the enquiry proceedings in M.P.No.30 of 2019 before the first respondent and further direct the respondents to run his saw mill in Survey No.1240/2B to an extent of 275 sq. ft. Door No.7, Kuruvikulam Road, Thiruvenkadam Town Panchayat, Thiruvenkadam Taluk, Tenkasi District based on his representation dated 25.01.2021.

For Petitioner : Mr.G.Gomathi Sankar

For Respondents : Mr.K.P.Narayanakumar
Special Government Pleader

ORDER

The case of the petitioner is that the property in Thiruvenkadam Village in Survey No.1240/2 to an extent of 16 Acres

35 cents wherein a 275 sq. ft. shop was purchased by his wife under the registered sale deed from one Subbaiah Nadar and his legal heirs. According to him, after the purchase of property, he has been in possession and enjoyment of the same. According to the petitioner, he is running a small Saw Mill under the name and style of 'Kumar Saw Mill' and he has been paying house tax and other property tax standing in the name of his wife and electricity service connection was also given in the name of his wife.

2.According to the petitioner, while matter stood thus, the second and third respondents claim that the property belong to third respondent's temple and therefore, there was an action initiated to vacate the Saw Mill and possession to be handed over to the third respondent. Originally, notice was issued on 02.02.2018 and subsequently a petition was filed under Section 78 of the Hindu Religious and Charitable Endowments Act. In the proceedings before the authority concerned, the petitioner's wife could not appear as claimed by the petitioner and however, the enquiry appears to have been conducted and concluded. On the basis of the conclusion of the enquiry, a direction was issued to hand over the possession to the third respondent and property in the Saw Mill also came to be sealed. In the meanwhile, the petitioner's wife appears to have died on 18.10.2020 and the petitioner has attempted to get himself impleaded in the proceedings before the authorities concerned under Hindu Religious and Charitable Endowments Act. He appears to have also filed a petition to set aside the order passed against his deceased wife. In the said circumstances, the petitioner is before this Court permitting him to participate in the enquiry proceedings before the first respondent in order to run the Saw Mill.

3.This Court is unable to appreciate as to what is the enquiry conducted and what ultimately happened and as to whether any order has been issued on conclusion of the enquiry by the first respondent. The entire affidavit is bereft of any relevant and specific details as to the enquiry conducted against the petitioner and the final order whether any passed by the first respondent or not. In the absence of any details, the petitioner is simply asking for issue of writ of mandamus allowing him to participate in the enquiry. This Court is not even informed or could cull out any information as to whether any proceedings are pending before the first respondent at all for the petitioner to maintain this Writ Petition.

4.Even otherwise, mere asking for a writ of mandamus cannot be issued by this Court unless some basis is disclosed in the affidavit for this Court to consider before a prerogative Writ is issued. In the absence of any details and based only on self-serving, bald and sketchy averments, no direction could ever be issued by this Court.

5.For the above said reasons, this Court is of the view that the Writ Petition is not at all maintainable. Therefore, this Writ Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

SRM

To

1.The Joint Commissioner,
Hindu Religious Charitable Endowment Board,
Tirunelveli,
Tirunelveli District.

2.The Assistant Commissioner,
Hindu Religious Charitable Endowment Board,
Tirunelveli,
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Arulmigu Chockalinga Swamy Thirukovil,
Thiruvenkadam,
Thiruvenkadam Taluk,
Tenkasi District.

+1 CC to M/s.G.GOMATHI SANKAR, Advocate (SR-7603[F] dated 26/02/2021)
+1 CC to M/s.SPL GP (SR-7864[F] dated 01/03/2021)

W.P.(MD) No.3713 of 2021
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TP(CO)
TR(09.04.2021) 3P 6C