



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) .No.10231 of 2021

M.Gopalakrishnan

... Petitioner

Vs.

1.The Joint Commissioner,
Hindu Religious & Charitable Endowments Department,
No.40, Muthusamy Nagar,
Thiruppathur Road,
Sivagangai - 630 561.

2.S.Anwar Baig

3.N.Kusalavan

4.L.Anitha Lakshmanan

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records related to the proceedings of the 1st respondent vide அ.தி.க.எண்.1329/2021/இ1. Dated 31.05.2021 and quash the same and consequently direct the 1st respondent to restore Original Application O.A.No.14 of 2017 filed by the petitioner.

For Petitioner : Mr.N.Dilip Kumar

For Respondents : Mr.M.Lingadurai for R1
Government Counsel

Mr.A.Thirumurthy for R3 & R4

ORDER

This writ petition has been filed challenging the impugned proceedings of the first respondent, dated 31.05.2021 and for a consequential direction to the first respondent to restore the original application filed by the petitioner in O.A.No.14 of 2017 and pass orders, within the time frame fixed by this Court.

2.The petitioner filed O.A.No.13 of 2017 before the Joint Commissioner under Section 63 (e) of Hindu Religious & Charitable Endowments Act, to declare that the second respondent is not entitled for any honour in any of the temples. This petition was subsequently transferred to the file of the first respondent and it



was taken on file in O.A.No.14 of 2017.

3.While this petition was pending, the third and fourth respondents also filed an application to implead themselves as a party and they claimed exclusive right over the temple. The first respondent allowed the impleading petition and the petitioner was directed to file an amended petition incorporating the names of the third and fourth respondents.

4.The petitioner did not appear for the hearing that was held on 03.12.2020. The matter was adjourned to 17.12.2020 and on that day, the petition itself was dismissed for default on the ground that the petitioner did not incorporate the third and fourth respondents as party respondents.

5.The petitioner thereafter, filed an application to set aside the dismissal order along with a petition to condone the delay of 54 days. The first respondent through the impugned proceedings, dated 31.05.2021, rejected the applications on the ground that the petition filed under Section 5 of the Limitation Act is not maintainable. Aggrieved by the same, the present writ petition has been filed before this Court.

6.Heard Mr.N.Dilip Kumar, learned counsel appearing for the petitioner, Mr.M.Lingadurai, learned Government Counsel appearing for the first respondent and Mr.A.Thirumurthy, learned counsel appearing for the respondents 3 and 4.

7.In the considered view of this Court, the petitioner must be permitted to contest the case on merits. The counsel appearing on behalf of the respondents 3 to 4 submitted that even if this Court is inclined to allow the writ petition and restore the application before the first respondent, some time limit must be fixed by this Court for the completion of the proceedings.

8.Taking into consideration the facts and circumstances of the case, this court deems it fit to give an opportunity to the petitioner to contest the application on merits. Hence, the impugned proceedings of the first respondent, dated 31.05.2021, is hereby quashed. There shall be a direction to the first respondent to restore the original application in O.A.No.14 of 2017. If the petitioner has not filed the amended application incorporating the third and fourth respondents as party respondents, the same shall be done immediately by the petitioner. The first respondent is directed to proceed further with the enquiry in O.A.No.14 of 2017, after affording opportunity to the petitioner and the respondents 2 to 4 and final orders shall be passed within a period of three months from the date of receipt of a copy of this order.



9.This writ petition is allowed with the above directions. No costs.

Sd/-

Assistant Registrar (AS)

// True Copy //

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/ /2021

Sub Assistant Registrar(CS)

TM

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 Joint Commissioner,
Hindu Religious & Charitable Endowments Department,
No.40, Muthusamy Nagar,
Thiruppathur Road,
Sivagangai - 630 561.

+1 CC to M/s.N.DILIP KUMAR, Advocate (SR-21815[F] dated
09/07/2021)

+1 CC to M/s.A.THIRUMURTHY, Advocate (SR-21818[F] dated
09/07/2021)

+1 CC to M/s.SPL GP (SR-22092[F] dated 12/07/2021)

Order made in

W.P. (MD) .No.10231 of 2021

09.07.2021

MGJ(16.07.2021) 3P 5C