



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.[MD]No.19882 of 2021

WEB COPY

B.Sambandamoorthi

: Petitioner

Vs.

1.The Commissioner,
H.R & C.E Department,
Nungambakkam,
Chennai.

2.The Joint Commissioner,
Hindu Religious & Charitable
Endowments Department,
Thanjavur, Thanjavur District.

3. T.Ramalingam

4. S.Vijayakumar

5. B.Senthil Kumar

6. R.Senthil Kumar

7. T.Velu

8. R.Radhakrishnan

9. N.Sankar

: Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records in respect of order passed by the first respondent in his proceedings in N.Dis.No.42010 of 2020 dated 01.04.2021 in respect of Thanjavur Karanthai Kulathumettu Arulmigu Ayyanar Koil and set aside the same and direct the first respondent to accept the appeal by exercising his Suo Motu power under Section 69(2) of the H.R & C.E. Act, 1959.

For Petitioner : Mr.N.Pandian

for Ms.S.Devasena

For Respondents : Mr.M.Lingadurai,

Special Government Pleader

for R1 and R2

: No Appearance for R3



O R D E R

Read this in conjunction with and in continuation of earlier proceedings made in previous listing on 08.11.2021 which reads as follows:

1. In the captioned writ petition, an order dated 10.04.2017 made by the second respondent (Joint Commissioner) in O.A.No.5 of 2008 has been assailed before the first respondent (Commissioner) by way of a statutory appeal under Section 69 of 'The Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act 22 of 1959)' (hereinafter 'TNHR&CE Act' for the sake of convenience and clarity) and this statutory appeal has been returned by the first respondent appellate authority by a return memo inter-alia saying that it is time barred as it has been filed with a delay of 1016 days.

2. In the captioned matter, learned counsel for writ petitioner submits that the writ petitioner was not a party to the proceedings before Joint Commissioner. The writ petitioner applied for a certified copy on 28.02.2020 and the same was made available to the writ petitioner on 19.06.2020. 60 days time provided for filing a statutory appeal elapsed on 18.08.2020 but the exact date on which the statutory appeal was presented is not available in the case file. Learned counsel for writ petitioner seeks time to ascertain this date and revert to this Court.

3. Be that as it may, the return memo of the first respondent appellate authority shows that the appeal has been filed on 01.04.2021.

4. Learned counsel for writ petitioner contended that there should be a directive qua exercise of suo-motu powers by the Commissioner under Section 69(2) of TNHR&CE Act. I am unable to agree as the concept of suo-motu matter power is in a realm, where a directive from this Court can only be under exceptional circumstances and those exceptions are well settled. This case does not fall under those exceptions as the petitioner has applied for certified copy of the order that is being assailed.

5. The principle laid down by Hon'ble Supreme Court in Ganesan, represented by its power agent G.Rukmani Ganesan Vs. Commissioner, Tamil Nadu Hindu Religious and Charitable Endowments Board and others reported in (2019) 7 SCC 108 which has also been reported in 2019 (3) CTC 469 qua condonation of delay (COD) regarding aforementioned statutory appeal comes into play.

6. Be that as it may, as a last desperate



submission, learned counsel submitted that writ petitioner is entitled to the benefit of extension of limitation period across the board in the light of the order made by Hon'ble Supreme Court in suo-motu proceedings owing to Corona Virus pandemic and consequent lock-down but learned counsel for writ petitioner requests for time to ascertain the exact dates and revert to this Court. Request acceded to. List a fortnight hence under the caption 'Adjourned Admission'.

7. List on 22.11.2021.'

2. Today, Mr.N.Pandian, learned counsel on record for writ petitioner seeks leave to withdraw the captioned writ petition. Request acceded to. Captioned writ petition is dismissed as withdrawn. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

pkn

To

1.The Commissioner,
H.R & C.E Department,
Nungambakkam,
Chennai.

2.The Joint Commissioner,
Hindu Religious & Charitable
Endowments Department,
Thanjavur, Thanjavur District.

+1 CC to M/s.R. GHIREEDHARAN, Advocate (SR-35592[F] dated 24/11/2021)

+1 CC to M/s.SPL GP (SR-35443[F] dated 23/11/2021)

W.P. [MD]No.19882 of 2021
22.11.2021

DKS (CO)

<https://hcservices.courtsgov.in/hcservices> SP 5C