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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2022

C O R A M

THE HON'BLE MS.JUSTICE V.M.VELUMANI

W.P.No.7829 of 2022

M.Kameswaran

Vs

...Petitioner

1.The Commissioner,
Hindu Religious & Charitable Endowment
Administration Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam, Chennai - 600 034.

2.The Joint Commissioner,
Hindu Religious & Charitable Endowment
Administration Department,
Tiruchirapalli -620 006.

3.The Executive Officer,
Pudukkottai Thirukoilgal,
Pudukkottai - 622 001.

4.S.Subbulakshmi

... Respondents

Prayer Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari, to call for the records in relation to the impugned order dated 02.09.2015 passed by the 1st respondent in Suo Motu Revision No.8 of 2014 D2 and to quash the same.

For Petitioner : Mr.S.Senthil

For R1 & R2 : Mr.K.Karthikeyan
Government Advocate

For R3 : Mr.N.Ravishankar Vallatharasu

For R4 : Mr.C.Iyyapparaj



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ORDER

The petitioner has come out with the present Writ Petition challenging the impugned order dated 02.09.2015 passed by the 1st respondent in Suo Motu Revision No.8 of 2014 D2.

2. According to the petitioner, he is the absolute owner of the property situated in Vellithirumutham Village, Srirangam Taluk, Trichirapalli District & Corporation, comprised in Ward-3, Block No.2, T.S.No.148, old Survey No.127/1, measuring to an extent of 1.87 acres. He purchased the same by the deed of sale dated 13.09.2010 bearing document No.2458 of 2010 from the 4th respondent. The said property has been endowed that from and out of the income of the property, the owner of the property must perform Mandagapadi and Samarathanai. The 4th respondent became owner of the property by the settlement. The petitioner purchased the property from the 4th respondent for total sale consideration of Rs.14 lakhs. The 4th respondent out of said sale consideration, deposited a sum of Rs.10 lakhs for the purpose of performing the above services by utilising the interest paid by the bank. The 4th respondent filed petition before the 2nd respondent for permission to perform the said services. The 2nd respondent by order dated 20.12.2013 permitted the 4th respondent to perform the services on condition that she deposits balance amount of Rs.4 lakhs also. The 4th respondent complied with the said order. While so, the 1st respondent as per Section 69(2) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, (hereinafter referred as 'the Act') initiated suo motu revision. The 1st respondent without issuing notice to the petitioner, after hearing the respondents 2 to 4 passed the impugned order. Hence, the petitioner has come out with present Writ Petition.

3. The learned counsel appearing for the petitioner submitted that the impugned order is arbitrary and is in violation of principles of natural justice as no notice was served on the petitioner, who is the owner of the property. Further, the 1st respondent failed to consider the suit in O.S.No.153 of 2012 pending on the file of the District Munsif Court, Tiruchirappalli, filed by the 3rd respondent to set aside the sale deed dated 13.09.2010 executed by the 4th respondent infavour of the petitioner and O.S.No.58 of 2016 renumbered as O.S.No.145 of 2019 on the file of the Principal Subordinate Court, Tiruchirappalli filed by the 4th respondent under Section 70 of the Act and prayed for setting aside the order of the 1st respondent and allowing the Writ Petition.

4. Mr.K.Karthikeyan, learned Government Advocate appearing for the respondents 1 and 2 submitted that as per Section 70 of the Act, remedy available to the petitioner is only to file suit before the competent Civil Court and the petitioner ought to have



filed the suit within 90 days. The learned Government Advocate also submitted that the 4th respondent already filed O.S.No.58 of 2016 renumbered as O.S.No.145 of 2019 challenging the impugned order of the 1st respondent and the same is pending on the file of the Principal Subordinate Court, Tiruchirappalli and prayed for dismissal of the Writ Petition.

5.In reply, the learned counsel appearing for the petitioner submitted that the present impugned order has been issued without issuing any notice to the petitioner as well as without hearing the petitioner and a direction may be issued to the learned Principal Sub-Judge, Tiruchirappalli to dispose of the suits after hearing the petitioner.

6.Heard the learned counsel appearing for the petitioner, learned Government Advocate appearing for the respondents 1 and 2 as well as learned counsel appearing for the respondents 3 & 4 and perused the materials on record.

7.From the above submission, it is clear that remedy available to the petitioner is to approach the Civil Court to redress all his grievances. The 4th respondent has already filed O.S.No.58 of 2016 renumbered as O.S.No.145 of 2019 challenging the impugned order and the same is pending before the Principal Subordinate Court, Tiruchirappalli. According to the petitioner, no notice was issued to the petitioner for the hearing. The impugned order was not served on the petitioner and the petitioner came to know about the impugned order only when he received notice in the Tr.C.M.P(MD).No.279 & 280 of 2018 filed by the 4th respondent for transferring O.S.No.58 of 2016 (O.S.No.145 of 2019) on the file of Principal Subordinate Court, Pudukkottai and O.S.No.153 of 2012 on the file of the District Munsif Court, Tiruchirappalli to the file of Principal Subordinate Court, Tiruchirappalli. From the records it is seen that, the petitioner has applied for the copy of the impugned proceedings in the District Munsif Court, Tiruchirappalli and the Court has furnished the certified copy of the impugned order to the petitioner only on 18.03.2022.

8.In view of the above submission of the learned counsel appearing for the petitioner that without hearing the petitioner, the impugned order has been passed, the Principal Subordinate Judge, Tiruchirappalli is directed to dispose of both the suits without being influenced by the impugned order passed by the 1st respondent, as expeditiously as possible preferably within a period of six (6) months from the date of receipt of a copy of this order.



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9. With the above direction, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar (CS-II)

//True copy//

Sub Assistant Registrar

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To:

1. The Principal Subordinate Judge,
Tiruchirapalli
2. The Commissioner,
Hindu Religious & Charitable Endowment
Administration Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam, Chennai - 600 034.
3. The Joint Commissioner,
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4. The Executive Officer,
Pudukkottai Thirukoilgal,
Pudukkottai - 622 001.

+1cc to Mr.S.Senthil, Advocate SR.No.30410

+1cc to Mr.N.Ravishankar Vallatharasu, Advocate SR.No.29933

W.P.No.7829 of 2022

SSN(CO)
GMY(24/05/2022)