IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.A.No.1093 of 2020
and
C.M.P.No.13365 of 2020

The Executive Officer,
Arulmighu Easwari Amman Temple
Zamin Uthukuli, Pollachi Taluk,
Coimbatore District. ...Appellant

Vs.

1.Arunkumar Kalingarayar
Kalingarayar Palace,
Zamin Uthukuli,
Pollachi Taluk.

2.District Revenue Officer,
Collector's Office Compound,
Coimbatore.

3.Sub Collector,
Sub Collector Office Compound,
Pollachi. ...Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent Act, against the order made in W.P.No.11286 of 2014 dated 13.03.2020.

For Appellant : Mr.G.Sugumaran

For Respondents : Mr.Vadivelu Deenadayalan, Additional Government Pleader for R2 & R3

R1 – No appearance

J U D G M E N T

(Judgment was made by **R.SUBRAMANIAN, J.**)

Challenge in this appeal is to the order of the writ Court dated 13.03.2020 made in W.P.No.1108 of2014.

The factual back drop is as follows:-

2. Certain lands in Uthukuli Village, Pollachi Taluk of Coimbatore District vested in the Government under the provisions of the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963, herein after referred to as “Act 30 of 1963”. Enquiry was undertaken by the Settlement Tahsildar in the year 1968 and patta was granted under Section 8(2)(ii) of Act 30 of 1963 in favour of the appellant temple represented by its hereditary trustee. All the revenue records also stood in the name of the temple represented by its hereditary trustee.

3. While things stood thus, the heirs of the then hereditary trustee Mr.A.M.R.Kalingarayar applied under Section 63(a) of the Tamilnadu Hindu Religious and Charitable Endowments Act, 1959 seeking a declaration that the temple in question is not a religious institution or temple as defined under Section 6(18) of the Act. It is stated that the said petition filed in the year 2002 and numbered as O.A.No.5 of 2005 is still pending. While so, the revenue records were altered by deleting the name of the temple and recording the name of one of the sons of the deceased hereditary trustee as the owner of the property. Upon realizing that such a correction had taken place, the temple moved the sub-Collector, Pollachi seeking modification of the entries made in the revenue records, claiming that they are against the order of the Settlement Officer. The respondents did not dispute the fact that the temple is the owner of the land. They would however claim that this temple is a part of the pooja room in the Palace of the zamindar and it is not a religious institution as defined under the Tamilnadu Hindu Religious and Charitable Endowments Act, 1959.

4. In view of the fact that the title of the temple was not disputed, the sub-Collector passed an order accepting the case of the temple and directed correction of the revenue records in the name of the temple. Aggrieved the legal heirs of the hereditary trustee preferred an appeal to the District Revenue Officer. The District Revenue Officer by order dated 07.01.2013 confirmed the order of the sub-Collector. This confirmation was challenged in W.P.No.11286 of 2014. The writ Court found that the appellate Authority has not given any reason for its conclusions. The writ Court also faulted the appellate authority for having described itself as an Additional District Judge. Be that as it may, the writ Court had found that the appellate Authority has not given any reason for its conclusions. Paragraph 8 of the order of the writ Court reads as follows:-

> *"It is rather surprising to note that the 1st respondent, namely, Mrs.K.Karpagam, M.Sc., B.Ed., has termed herself as Additional District Judge, to which post, she can never aspire. Therefore, the nomenclature given to her post is not tenable. Furthermore, the order*

passed by the 1st respondent does not assign any reason as to why the order passed by the 2nd respondent needs to be confirmed. None of the grounds raised by the petitioner, more particularly, the ground in Para No.5 as referred above, has been considered. Thus, the approach of the 1st respondent was truly perverse."

5. The pendency of the application under Section 63(a) was also taken note of and the writ Court allowed the writ petition and quashed the impugned orders.

6. We have heard Mr.G.Sugumaran, learned counsel appearing for the appellant and Mr.Vadivelu Deenadayalan, learned Additional Government Pleader appearing for the respondents 2 and 3. The 1st respondent though served is not appearing either in person or through counsel duly instructed.

7. We find that the order of the writ Court suffers from the wise of lack of reason. While faulting the Authority for not giving any reasons, the writ Court ought to have set aside the order and directed the matter to be heard afresh by the appellate authority. If the order of the appellate Authority is unreasoned, the writ Court should have either allowed the writ petition and remitted the matter for a fresh consideration by the appellate authority or it should have undertaken the exercise of sub-planting the reasons. The writ Court has not adopted either of the above two available options. It has exercised the un-available option viz., to allow the writ petition and set aside the orders of the Authorities. We do not think such an approach could be accepted.

8. We therefore, while setting aside the order of the writ Court, remit the matter to the appellate Authority, since the finding of the writ Court is that the appellate Authority has not given any reasons. The Appellate Authority is directed to consider the matter afresh and dispose of the same in accordance with law within a period of four (4) months from the date of receipt of a copy of the order, after affording opportunity to all the parties interested.

9. The writ appeal is **allowed**. The order of the writ Court is set aside and the order of the appellate Authority is also set aside. The matter is remitted to the appellate Authority to re-hear the matter as directed above. No costs. Consequently, the connected miscellaneous petition is closed.

(R.S.M., J.) **(K.B., J.)**
03.11.2022

dsa
Internet :No
Index :Yes
Speaking order

To

1.District Revenue Officer,
Collector's Office Compound,
Coimbatore.

2.Sub Collector,
Sub Collector Office Compound,
Pollachi.

R.SUBRAMANIAN, J.
and
K.KUMARESH BABU, J.

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