



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE PARESH UPADHYAY

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.A(MD)No. 60 of 2022

and C.M.P. (MD) Nos. 802 & 803 of 2022

K.V.Lakshmiammal

.. Appellant/Petitioner

Vs

1. The Joint Commissioner,
Hindu Religious and Charitable Endowment,
Sivagangai District.
2. The Joint Commissioner,
Hindu Religious and Charitable Endowment,
Madurai District.
3. The Executive Officer / Deputy Commissioner
Arulmigu Subramania Swamy,
Thirupparankundram,
Madurai.
4. The Assistant Commissioner,
Hindu Religious and Charitable Endowment,
Madurai.

.. Respondents/Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 19.01.2022 made in W.P.(MD) No. 851 of 2022.

Prayer in WP(MD). 851 OF 2022 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Pleased to issue an order or direction more particularly in the nature of writ of Certiorari or any other appropriate Writ or order or direction in the nature of the writ calling for the records pertaining to the impugned notice passed by the 4th respondent in Na.Ka.No.2348/2007-1 Aa-1, dated 05.01.2022 and pass such further or other orders as this Honourable Court may deem fit and proper in the above facts and circumstances of the case and thus render justice.

For Appellant : Mr.P.Athimoolapandian

For Respondents : Mr.P.Subbaraj
Special Government Pleader
for R1,R2 & R4

: Mr.V.R.Shanmuganathan for R3



JUDGMENT

[Delivered by R.VIJAYAKUMAR, J.]

1. The writ petitioner received an order under Section 78 of HR & CE Act passed by the Joint Commissioner, Sivagangai in M.P.No. 1 of 2015 on 09.09.2021. After the said order, the petitioner filed O.S.No. 417 of 2021 before the IV Additional District Judge, Madurai with a prayer for declaration of his title and to declare the order passed by the Joint Commissioner under Section 78 of HR & CE Act is illegal, void and in-operative. Thereafter, the petitioner has received an order under Section 79 of HR & CE Act on 05.01.2022 putting the order dated 09.09.2021 under execution.

2. The above said order was challenged before learned Single Judge in W.P.(MD) No. 851 of 2022. The learned Single Judge has proceeded to dismiss the writ petition on the ground that the suit filed by the petitioner cannot be maintained and the petitioner has not made out any prima facie case. The said order is under challenge in this appeal.

3. We have heard learned counsel appearing for the appellant as well as the respondents.

4. The writ appellant is mainly aggrieved by the direction "j)" of the order impugned under which learned Single Judge has held that the suit filed by the writ petitioner is not maintainable. We set aside the said direction and hold that the suit for declaration of title filed by the petitioner may be decided on its own merits and in accordance with law without being influenced by the order passed by this Court in W.P(MD) No. 851 of 2022. The respondent / temple is entitled to proceed with the execution proceedings under Section 79 of HR & CE Act. In case, if the petitioner succeeds in the civil suit, the petitioner is at liberty to seek re-possession of the property.

5. With the above observations, this writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

ssm/27

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To

1. The Joint Commissioner,
Hindu Religious and Charitable Endowment,
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4. The Assistant Commissioner,
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Madurai.

+1 CC to M/s.SPL.GP. (SR-18380[F] dated 12/04/2022)

W.A(MD)No. 60 of 2022
11.04.2022

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