



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. (MD) No.7254 of 2022

Arulmighu Kottai Mari Amman Thirukovil Dindigul,
through its Managing Trustee
CMPS.VP.Subhasini,
No.11, Main Road,
Varadharaj Complex,
Dindigul.

... Petitioner

/vs./

1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Nungambakkam High Road,
Chennai.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Dindigul.

3.M.Ramesh

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned exparte proceedings of the second respondent undated, signed on 01.04.2022 in A.P.No.2 of 22 on her file and the consequential return of the application to set aside the said ex parte proceedings dated 08.04.2022 and quash the same and consequently direct the second respondent to hear the appeal in A.P.No.2 of 2022 on merits and decide the same in accordance with law after affording sufficient opportunity to the petitioner.

For Petitioner	: Mr.VR.Shanmuganathan
For R1 & R2	: Mr.P.T.Thiraviam Government Advocate
For R3	: Mr.R.G.Shankar Ganesh

ORDER

The petitioner has filed this writ petition for a Certiorarified Mandamus to quash the impugned ex parte order of the 2nd respondent in A.P.No.2 of 22 and to quash the same and consequently to direct the 2nd respondent to hear the appeal in A.P.No.2 of 2022 on merits and decide the same in accordance with law after affording sufficient opportunity to the petitioner.



2.It is the specific case of the petitioner that the members of the petitioner's family had earlier filed a suit in O.S.No.478 of 1998 to declare themselves as hereditary poojaris of the respondent temple contrary to Section 55 of the Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959 (*herein after referred to as Act*). It is submitted that the said suit was decreed on 03.11.2016 and thereafter, the petitioner preferred an appeal in A.S.No.18 of 2017, wherein an interim order has been granted by the appellate Court on 04.08.2017.

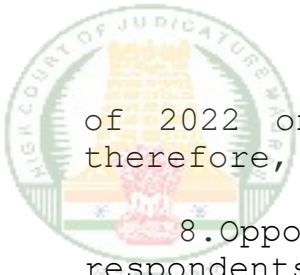
3.The learned counsel for the petitioner submits that the said appeal was however dismissed for default and therefore, steps have been taken for restoring the appeal. Meanwhile, the 3rd respondent has filed a petition under Section 56 of the Act seeking reinstatement as a Poojari of the temple.

4.The learned counsel for the petitioner further submits that the said petition was numbered as A.P.No.2 of 2022 and notice was despatched on 15.02.2022 and thereafter, a summon was issued to the petitioner on 18.03.2022 to appear before the 2nd respondent for a hearing on 29.03.2022. It is submitted that 29.03.2022 was the first date of hearing before the 2nd respondent.

5.The learned counsel for the petitioner further submits that on the same day, another application at the behest of the 3rd respondent and the members of his family in O.A.No.1 of 2022 under Section 63(b) of the Act was also filed before the 2nd respondent. It is further submitted that the petitioner had engaged a lawyer from Madurai to represent the interest of the petitioner before the 2nd respondent in this proceedings and when the learned counsel for the petitioner, who had been engaged to appear before the 2nd respondent, was proceeding for hearing, he was informed that his mother-in-law has passed away and therefore, he informed the officers of the 2nd respondent to accommodate and adjourn the case to another date in view of the above news. Therefore, on the aforesaid date, there was no representation for the petitioner before the 2nd respondent.

6.It is further submitted that while O.A.No.1 of 2022 was adjourned curiously, the 2nd respondent set the petitioner *ex parte* and thereafter, proceeded to pass the impugned order in A.P.No.2 of 2022. Against the impugned order, the petitioner also filed an application for vacating the *ex parte* order, which was returned by the office of the 2nd respondent stating that the petitioner can only file a revision or appeal before the Commissioner against the order of the 2nd respondent. The petitioner is thus aggrieved by the impugned order.

7.It is submitted that the impugned order has been passed in gross violation of principles of natural justice and the undue alacrity has been shown in disposing of the application in A.P.No.2



of 2022 on the very first day of hearing was uncalled for and therefore, the impugned order is liable to be quashed.

8. Opposing the prayer, the learned counsel for the official respondents submits that the impugned order is well reasoned and detailed and therefore warrants no interference. It is therefore submitted that the petitioner should be directed to file a statutory revision before the Commissioner under Section 21 of the Act.

9. The learned counsel for the 3rd respondent on the other hand would submit that the petitioner was negligent in not attending the hearing fixed on 29.03.2022. It is under these circumstances that the order came to be passed in A.P.No.2 of 2022 on 01.04.2022, after the petitioner was set *ex parte* on 29.03.2022.

10. The learned counsel for the 3rd respondent further submits that the connected application under Section 63 (v) of the Act in O.A.No.1 of 2022 was adjourned at the request of the 3rd respondent, since the 3rd respondent had to let in evidence. It is therefore submitted that the impugned order cannot be questioned by the petitioner by bye-passing the statutory remedy prescribed under the Act. It is further submitted that the impugned order is well reasoned and requires no interference and therefore, he prays for dismissal of this writ petition.

11. After hearing the learned counsel for the petitioner, learned counsel for the official respondents and the learned counsel for the 3rd respondent, this writ petition is disposed of by directing the petitioner to file a statutory revision before the Commissioner within a period of 30 days from the date of receipt of a copy of this order under Section 21 of the Act. The petitioner is also given liberty to file an application for interim stay of the impugned order before the 1st respondent. If such an application is filed within such time, the 1st respondent/the Commissioner shall take up the same for hearing and dispose of the same on merits and in accordance with law, after hearing the petitioner and the 3rd respondent, within a period of 45 days from the date of filing of such application. Till such time, the implementation of the impugned order shall be kept in abeyance.

12. The writ petition stands disposed of in terms of the above observation. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)



1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Chennai.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Dindigul.

+1 CC to M/s.SPL.GP. (SR-19757[F] dated 20/04/2022)

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CK (CO)
KB (02.05.2022) 4P 4C