



WEB COPY

W.A.(MD)No.515 of 2022:-

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.06.2022

CORAM:

THE HONOURABLE **MR.JUSTICE S.S.SUNDAR**

and

THE HONOURABLE **MRS.JUSTICE S.SSRIMATHY**

W.A(MD)Nos.515 and 516 of 2022

and

C.M.P.(MD)Nos.4618 and 4620 of 2022

W.A. (MD)No.515 of 2022:-

R.Manoharan

... Appellant/ Petitioner

Vs.

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

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

3.Muthuramalingam ... Respondents / Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent to set aside the order of this Court, dated 12.04.2022 made in W.P.(MD) No.2863 of 2018.

**Prayer in WP(MD) . 2863 of 2018 :**

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Cerfiorarified Mandamus call for records pursuant to the 1st respondent impugned order A.P.NO.18/2017 D2 dt.14/11/2017 and 2nd respondent impugned order dated 17/01/2017 in O.A.No.2 of 2009 quash the same and direct the 2nd respondent to pass appropriate order on the petitioners recall application dated 22/12/2016 in O.A.No.2 of 2009 in accordance with law and any other appropriate order.

For Appellant :Mr.J.John

For R1 and R2 :Mr.M.Lingadurai  
Special Government Pleader



**W.A.(MD)No.516 of 2022:-**

1.M.Murugesan

2.R.Muthuramanlingam

3.K.Dharmaraj

... Appellants/Petitioners

WEB COPY

Vs.

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

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

3.Muthuramalingam ... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent to set aside the order of this Court, dated 12.04.2022 made in W.P.(MD) No.10246 of 2018.

**Prayer in WP(MD) . 10246 of 2018 :**

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus call for records pursuant to the 1st respondent impugned order A.P.No.18/2017 dated 14.11.2017 and 2nd respondent impugned order dated 17.01.2017 in O.A.No.2 of 2009 quash the same.

For Appellants

:Mr.J.John

For R1 and R2

:Mr.M.Lingadurai

Special Government Pleader

**COMMON JUDGMENT**

(Common Judgment of the Court was delivered by **S.S.SUNDAR, J.**)

The appellants in these Writ Appeals preferred independent Writ Petitions.

2.In the first Writ Petition in W.P(MD)No.2863 of 2022, filed by the appellant in W.A(MD)No.515 of 2022, the prayer was that the impugned order passed by the first respondent confirming the order of the second respondent should be quashed.

3.The appellants in W.A(MD)No.516 of 2022 filed W.P.(MD) No.10246 of 2022, challenging the order of the first respondent in

<https://hcservices.ecourts.gov.in/hcservices/>



A.P.No.18 of 2017 dated 14.11.2017 confirming the order of the second respondent, dated 17.01.2017 in O.A.No.2 of 2009.

4.The orders impugned in the Writ Petitions filed by the appellants were passed by the second respondent/Joint Commissioner under Section 63(e) of the Tamil Nadu Hindu Religious Charitable and Endowments Act. The appellants have preferred the appeals before the Commissioner of HR & CE Department, aggrieved by the order of the Joint Commissioner under Section 69 of the Act. The same were dismissed by the first respondent. Aggrieved by the orders of the first respondent, the appellants have preferred the respective Writ Petitions, as indicated above.

5.As against the order passed by the first respondent under Section 69 of the Act, the only remedy available to the aggrieved persons is to file a statutory suit under Section 70 of the Act. Section 70 of the Act reads as follows:

*"70. Suits and appeals.-(1) Any party aggrieved by an order passed by the Commissioner-*

*(i) under sub-section (1) or sub-section (2) of section 69 and relating to any of the matters specified in section 63, section 64 or section 67 ; or*

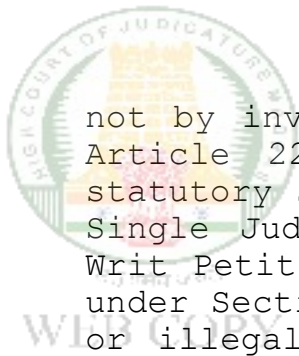
*(ii) under section 63, section 64 or section 67 read with sub-section (1)(a), 2 or (4)(a) of section 22 or under section 65 may, within ninety days from the date of the receipt of such order by him, institute a suit in the Court against such order, and the Court may modify or cancel such order, but it shall have no power to stay of order of the Commissioner pending the disposal of the suit.*

*(2) Any party aggrieved by a decree of the Court under sub-section (1), may, within ninety days from the date of the decree, appeal to the High Court."*

6.The learned Counsel for the appellants submitted that a statutory suit is not necessary having regard to the nature of application filed before the Joint Commissioner, which gives the right or cause of action to maintain an appeal under Section 69 of the Act.

7.The learned Counsel for the appellants states that the hereditaryship was abolished in the year 1972 and that therefore, the appellants are entitled to perform poojariship jointly in the temple. This cannot be a reason for maintaining a Writ Petition. Even if the hereditaryship is abolished, the claim of individual has been considered in exercise of the Joint Commissioner's power under Section 63(3) of the Act.

8.In such circumstances, the remedy available to the appellants after filing an appeal under Section 69(e) of the Act is



not by invoking the extraordinary jurisdiction of this Court under Article 226 of Constitution of India, but to go by way of a statutory suit under Section 70 of the Act. Therefore, the learned Single Judge after narrating the facts, has given liberty to the Writ Petitioners/appellants to approach the Civil Court as provided under Section 70 of the Act. This Court is unable to find any error or illegality in the order of the learned Single Judge. Hence, these appeals are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

To

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

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

+2 CC to M/s.J.JOHN, Advocate (SR-25242, SR-25243[F] dated  
13/06/2022 )

W.A(MD)Nos.515 and 516 of 2022  
10.06.2022

RD(20.06.2022) 4P 5C