



W.P(MD).No.17392 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.08.2022

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P(MD).No.17392 of 2022

and

W.M.P.(MD).No.12668 of 2022

Thangaraj

... Petitioner

Vs.

1.The Joint Commissioner,
Tamil Nadu Hindu Religious and
Charitable Endowment Department,
Dindigul.

2.Dindigul District Suruttu Thozhilargal
Nalasangam through its President,
Office at South Car Street,
Dindigul.

3.S.Thavaseelan

4.P.Chinnakaruppan

5.R.Ganesan

6.The Chairman,
Board of Hereditary Trusteeship
Arulmigu Kottai Mariamman Temple,
Dindigul.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent dated 10.05.2022 made in I.A.No.1 of 2020 in O.A.No.1 of 2021 (O.A.No.2 of 2017 MDU) dispatched on 26.05.2022 quash the same, as the same is arbitrary, ultravires, in colorable exercise of power and consequentially direct the first respondent to rehear O.A.No.1 of 2021 (O.A.No.2 of 2017 MDU) afresh on merits.

For Petitioner : Mr.R.G.Shankar Ganesh

For R-1 : Mr.M.Lingadurai,
Special Government Pleader.

ORDER

The petitioner who is the second respondent in O.A.No.2 of 2017 was filed before the Joint Commissioner, Madurai. Thereafter, it has been transferred to Joint Commissioner, Dindigul which has been renumbered as O.A.No.1 of 2021. The petitioner had filed an interlocutory application in the said O.A.No.1 of 2021 For rejection of O.A. on the ground for abuse of process of law, for the reason that it is second petition, already for the same issue which has been earlier decided by the Civil Court in O.S.No.99 of 2010. The petitioner is seeking for a Mandalapadi right as well as the respondent petitioner in O.A.No.1 of 2021.



2. The grievance of the petitioner is that the Civil Court finding in O.S.No.99 of 2010 decree dated 11.11.2011 had become final. Thereafter, O.A.No.2 of 2017 has been filed. In that petition, the petitioner had filed a miscellaneous petition to reject the O.A. However, the order of rejection of the miscellaneous petition and the order of allowing the original application came to be passed on 29.11.2017 against which the petitioner had filed W.P.(MD).No.22560 of 2017 and this Court by order dated 24.08.2020 set aside the adjudicating authority order dated 29.11.2017 and directed the first respondent to try O.A.No.2 of 2017 on merits afresh. Thereafter, the petitioner had filed I.A.No.1 of 2020. The respondents 2 to 6 had also filed a counter affidavit for the same. After several adjournments, the case in I.A.No.1 of 2020 was posted on 29.04.2020. However, on that date, the petitioner's counsel was unable to appear before the first respondent. The petitioner had filed an application to reopen the case on 16.05.2022. The reopen petition filed by the petitioner was neither taken on file nor returned. Subsequently, on 26.05.2022 bearing the date of order as 10.05.2022, the impugned order came to be passed. According to the petitioner, the reopen petition is predated, thereafter passing an impugned order, which is dispatched on 26.05.2022, is an colorable exercise. He further submitted that



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the petitioner's I.A. to reopen the case dated 16.05.2020 is still available in the file. Hence, it will be appropriate to call for the records and confirmed the same.

3. The learned Special Government Pleader appearing for the first respondent submits that whatever may be the allegation of the petitioner, now an order has been passed in O.A.No.1 of 2021 by the respondent on 10.05.2022. The petitioner if at all aggrieved has to file an appeal before the Commissioner under Section 69 of the Hindu Religious and Charitable and Endowments Act within a period of 60 days. The petitioner may be directed to approach the Commissioner, Hindu Religious and Charitable and Endowments Department.

4. The learned counsel for the petitioner further submitted that by approaching this Court, the petitioner is unable to file an appeal before the Commissioner within a stipulated period. Hence the delay to be condoned.

5. Considering the submissions, it is seen that the petitioner challenging the order of I.A.No.1 of 2020 in O.A.No.1 of 2021 has to necessarily file an



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appeal before the Commissioner, Hindu Religious and Charitable and Endowments Department. The petitioner is given liberty to file an appeal before the Commissioner. Hence, the delay is condoned in filing the appeal. This Court directs the petitioner to file an appeal within a period of fifteen (15) days from the date of receipt of a copy of this order.

6. With the above liberty, this Writ Petition stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

04.08.2022

Index : Yes / No

Internet : Yes/ No

Nsr

Note: Registry is directed to return the original impugned order copy with the cover to the petitioner.

To

The Joint Commissioner,
Tamil Nadu Hindu Religious and
Charitable Endowment Department,
Dindigul.

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M.NIRMAL KUMAR, J.

Nsr

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