



WEB COPY

W.A(MD)No. 2158 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE PARESH UPADHYAY

and

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.A(MD)No. 2158 of 2021

Gunasundari

.. Appellant

Vs

1.The Commissioner,
Hindu Religious and Charitable Endowment Board,
Chennai.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowment Board,
Madurai.

3.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Board,
Madurai.

4.Thakkar / Fit Person,
Arulmighu Karuppanasamy Thirukovil,
Paravai, Madurai North,
Madurai District.

.. Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 12.10.2021 made in W.P.(MD) No. 18747 of 2021.

Prayer in WP(MD). 18747/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of certiorarified mandamus calling for the records challenging the impugned order of the 1st respondent in N.Dis.No.50579/2021/D2 dated 13.07.2021 and the impugned order of the 3rd respondent in Na.Ka.No.1354/2021-1.A1 dated 27.09.2021 and quash the same and subsequently directing the 1st respondent to decide the appeal preferred by the petitioner against the order of the 2nd respondent in Miscellaneous No.97/2018 dated 20.02.2019 and pass such further or other orders as this Honourable Court may deem fit and proper in the circumstances of the case and thus render justice.

For Appellant : Mr.R.R.Kannan

For Respondents : Mr.P.Subbaraj
Special Government Pleader
for R1 to R3

: Mr.R.Manohar for R4



JUDGMENT

[Delivered by PARESH UPADHYAY, J.]

Challenge in this appeal is made to the order dated 12 October 2021 recorded on W.P.(MD) No. 18747 of 2021. This appeal is by the writ petitioner.

2. Learned advocate for the appellant / writ petitioner has submitted that, the petitioner had put in efforts of over a decade and has grown hundreds of coconut trees which are ripe now and at that stage proceedings are taken up against him and his grievance is not adjudicated on merits by the respondent authorities. It is submitted that, the petitioner is not claiming any right / title over the property in question but request some protection in the transitory phase.

3. Learned advocate for the fourth respondent has vehemently opposed this appeal inter-alia contending that, the petitioner can not have even any locus to file the proceedings since according to him, he is not even a tenant of the property in question, according to him he is a sub-tenant. It is submitted by him that this appeal be dismissed.

4. Learned Special Government Pleader, on being asked has submitted that, though the State stands by the order of learned Single Judge which is against the writ petitioner, in the event any direction is given to the Commissioner to adjudicate the dispute on merits, the same be responded in accordance with law.

5. Having heard learned advocates for the respective parties and having considered the material on record this Court finds that, ends of justice would meet, if without entering into the merits of the matter, limited relief is granted to the writ petitioner / appellant by giving direction to the first respondent to hear the Revision Petition which was dismissed by him vide order dated 27 September 2021. The said Revision was treated to be beyond the stipulated time. In any case, the said rejection was in September 2021 which was immediately post second wave of corona pandemic. In peculiar facts of the case, the grievance of the appellant needs to be considered on merits by the first respondent.

6. For the above reasons, the following order is passed:-

6.1 This appeal is partly allowed.

6.2 The first respondent is directed to hear the Revision Petition filed by the appellant, on merits, in accordance with law.

6.3 Till the said Revision Petition is heard and decided, the order of the Commissioner shall not be made irreversible for the present appellant.

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



7. This writ appeal is disposed of in above terms. No costs. Consequently, connected C.M.P.(MD) No.10368 of 2021 would not survive.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Ssm/20

To

1.The Commissioner,
Hindu Religious and Charitable Endowment Board,
Chennai.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowment Board,
Madurai.

3.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Board,
Madurai.

+1 CC to M/s.SPL GP (SR-14555[F] dated 25/03/2022)

+1 CC to M/s.RR.KANNAN, Advocate (SR-14362[F] dated 24/03/2022)

+1 CC to M/s.S.MANO HAR, Advocate (SR-14686[F] dated 25/03/2022)

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RD(04.04.2022) 3P 7C