



W.P.(MD) No.11189 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.05.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD) No.11189 of 2023

and

W.M.P.(MD) Nos.9789 and 9791 of 2023

S.Sivasubramania Battar

... Petitioner

/vs./

- 1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Nungambakkam,
Chennai.
- 2.The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department,
Tuticorin District.
- 3.The Joint Commissioner/Executive Officer,
Arulmigu Subramania Swamy Temple,
Trichendur,
Tuticorin District.
- 4.The Trustee (Thakkar),
Arulmigu Subramania Swamy Temple,
Trichendur,
Tuticorin District.



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5.K.Krishnamoorthy Battar

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records of the impugned order passed by the second respondent in Appeal No.01 of 2022 dated 05.04.2023 and quash the same as illegal.

For Petitioner : Mr.S.Angappan

For R1 to R3 : Mr.V.Nirmal Kumar
Government Advocate

For R4 : Mr.M.Muthugeethaiyan

For R5 : Mr.R.T.Arivukumar

ORDER

Heard the learned counsel on either side.

2.The petitioner is aggrieved by the impugned order dated 05.04.2023 whereby A.No.1 of 2022 was dismissed for default by the second respondent.

3.It appears that the counsel through whom the appeal was filed originally had passed away. Due to District bifurcation, the petitioner claims that he was not



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put on notice. This assertion is denied by the learned Government Advocate appearing for the second respondent. I do not want to go into the factual aspects. Since the substantive right of the petitioner is involved, he deserves consideration of his case on merits. It is also seen that the petitioner has come to this Court immediately. The petitioner cannot be accused of laches. In order to give one more opportunity to the petitioner, the order impugned in the writ petition is set aside. The matter is remitted to the file of the second respondent. Since the fifth respondent is also represented by a counsel, the parties shall appear before the second respondent on 12.06.2023 at 03.00 pm., It is for the second respondent to hear the parties and give a disposal on merits and in accordance with law. I make it clear that I have not gone into the merits of the matter. Since the order impugned in the writ petition is set aside, the *status quo ante* shall stand restored.

4.The Writ Petition is allowed, accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
Internet : Yes / No
NCC : Yes/No
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G.R.SWAMINATHAN, J.

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