



W.P.(MD)No.24533 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 16.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.24533 of 2023

and

W.M.P.(MD)No.20711 of 2023

M.Rajalingam Pillai

... Petitioner

versus

1. The Secretary to Government of
Tamil Nadu,
Hindu Religious and Charitable
Endowment Department,
Chennai – 600 009.
2. The Commissioner,
Hindu Religious and Charitable
Endowment Department,
Chennai – 600 034.
3. The Joint Commissioner,
Hindu Religious and Charitable
Endowment (Admn.) Department,
Tiruchirappalli.



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4. The Executive Officer,
Arulmighu Rethinagireswarar Thirukovil,
Iyyermalai,
Kulithalai Taluk,
Karur District.

5. A.M.R.P. Manickam Chettiar

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records from the 2nd respondent in his proceedings in A.P.No. 7/2021/D2/ dated 25.11.2022 and quash the same and consequently, direct the respondents 1 to 4 to appoint the petitioner or any one of the persons from his community called “3 Mandhai 84 Woor Sozhia Vellalar Community”as trustee of the temple called Arulmighu Rathinagireswarar temple Iyyermalai, Kulithalai Taluk, Karur District within the period stipulated by this Court.

For Petitioner : Mr.N.Sathish Babu

For R1 to R4 : Mr.P.Subba Raj,
Special Government Pleader

ORDER

This writ petition is filed as against the proceedings of the second respondent dated 25.11.2022, rejecting the appeal preferred by the



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petitioner under Section 69(1) of the HR&CE Act, in A.P.No.

7/2021/D2.

2. The learned counsel appearing for the petitioner submits that the petitioner and his community people preferred an application before the 3rd respondent in O.A.No.29 of 2019 under Section 64(1) of HR&CE Act, seeking to modify the earlier scheme framed in the year 1939 in O.A.No.646 of 1929. The 3rd respondent, by his proceedings dated 16.12.2020, dismissed the said application. As against the same, an appeal has been filed before the 2nd respondent in A.P.No.7/2021/D2 under Section 69(1) of the HR&CE Act and the same was also dismissed on 25.11.2022. Challenging the same, the present writ petition has been filed.

3. Mr.P.Subba Raj, learned Special Government Pleader, who takes notice for respondents 1 to 4, by referring to the provisions under Section 70 of HR&CE Act and submits that the petitioner is having a



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remedy by filing a suit before the competent Civil Court. However, it has to be filed within a stipulated period of 90 days. The petitioner, in order to over come the limitation period, has filed this writ petition.

4. The learned counsel for the petitioner submits that the impugned order has been passed without considering the submission of the petitioner in the appeal and therefore, the writ petition has been filed. He further submits that the impugned order is dated 25.11.2022. But, the petitioner has got a copy of the order only on 20.09.2023. He has also relied on a copy of the order dated 25.11.2022 which has been received on 20.09.2023.

5. The submission made by the learned counsel for the petitioner has been disputed by the learned Special Government Pleader that the copy application was made only on 02.08.2023 in order to overcome the limitation period.



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6. This Court considered the rival submissions and perused the materials available on record.

7. As against the dismissal order of the second respondent passed in the appeal in A.P.No.7/2021/D2 filed under Section 69(1) of HR&CE Act, the petitioner is having a remedy by way of filing a suit before the competent Civil Court, under Section 70 of HR&CE Act. However, it ought to have been preferred within a period of 90 days. But, the petitioner claims that he is not aware of the dismissal order passed by the second respondent on 25.11.2022 and he got the copy of the order only on 20.09.2023.

8. Considering the reasons stated by the petitioner, this writ petition is disposed of with liberty to the petitioner to file a suit under Section 70 of HR&CE Act before the competent Civil Court, within a period of two weeks from the date of receipt of a copy of this order. In the event of filing such suit, the concerned Civil Court shall take up the



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suit, without insisting on the period of limitation. No costs.

Consequently, connected miscellaneous petition is closed.

16.10.2023

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NCC : Yes / No.
Index : Yes / No.
Internet : Yes / No.

To

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B.PUGALENDHI, J.

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