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W.P. No. 7690 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2024

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 7690 of 2024

Lakshmanan

... Petitioner

-VS-

1. The Commissioner
Hindu Religious and Charitable Endowment Department
Nungambakkam, Chennai – 600034.

2. The Assistant Commissioner (Legal Cell)
Hindu Religious and Charitable Endowment Department
Nungambakkam, Chennai – 600034.

...

Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the Second Respondent in his proceedings N.Dis.No.264566/2024/D2 dated 01.02.2024 quash the same as illegal and consequently directing the First and Second Respondents to number the appeal filed by the Petitioner within a stipulated period of time fixed.

For Petitioner : Mr. M.Dinesh

For Respondents : Mr. S.Ravichandran,
Additional Government Pleader



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ORDER

Heard Mr. M.Dinesh, Learned Counsel for the Petitioner and Mr. S.Ravichandran, Learned Additional Government Pleader who takes notice for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Joint Commissioner, Hindu Religious and Charitable Endowments Department, Salem by Order dated 31.05.2007 in O.A. Nos. 9 and 10 of 1998 had determined that K.Chinnasamy was the Hereditary Trustee of Sree Aanur Amman @ Chellandi Amman Temple (hereinafter referred to as the 'Temple' for short) under Section 63(b) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (hereinafter referred to as the 'HR & CE Act' for short). According to the Petitioner, he was not aware of the said order and on coming to know of it, he had preferred an appeal against it under Section 69(1) of the HR & CE Act before the First Respondent, who has declined to excuse the delay in filing such appeal beyond the permissible period of limitation referring to the decision of the Hon'ble Supreme Court of India in ***Ganesan -vs- Commissioner, Tamil Nadu Hindu Religious and Charitable Endowments Board*** [(2019) 7



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SCC 108], by Proceedings in N.Dis.

No. 264566/2024/D2 dated

01.02.2024, which is assailed in this Writ Petition.

3. It is not in dispute that the Petitioner was entitled to prefer an appeal against the said order under Section 69(1) of the HR & CE Act before the First Respondent within 60 days from the date of receipt of its copy, but such appeal had been presented after the expiry of the period of limitation along with the application to condone that delay. It has been held by the Hon'ble Supreme Court of India in ***Ganesan -vs- Commissioner, Tamil Nadu Hindu Religious and Charitable Endowments Board*** [(2019) 7 SCC 108] that the applicability of Section 29(2) of the Limitation Act, 1963, is restricted to any suit, appeal or application filed in a 'Court' and cannot be pressed in service with regard to filing of appeal before the Statutory Authorities and Tribunals provided in a special or local law. That apart, the Hon'ble Supreme Court of India in ***Assistant Commissioner (CT) LTU, Kakinada -vs- Glaxo Smith Kline Consumer Health Care Limited*** [(2020) 19 SCC 681] has emphatically laid down that the High Court in the exercise of powers under Article 226 of the Constitution of India ought not to entertain Writ Petition assailing the order passed by a Statutory Authority which was not appealed against within the maximum period of limitation before the concerned Appellate Authority. In view



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of that legal position, it is not possible to entertain this Writ Petition challenging the order of the First Respondent, but as observed by the Hon'ble Supreme Court of India in ***Ganesan -vs- Commissioner, Tamil Nadu Hindu Religious and Charitable Endowments Board*** [(2019) 7 SCC 108], it would not preclude the First Respondent to exercise powers of *suo motu* revision conferred under Section 69(2) of the HR & CE Act for which there is no period of limitation prescribed in that enactment and will be without prejudice to any other remedy open to the aggrieved person in law.

In the result, the Writ Petition is dismissed with the aforesaid clarifications. No costs.

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Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 29.05.2024.

Maya



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To

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Hindu Religious and Charitable Endowment Department
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P.D. AUDIKESAVALU, J.

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