



W.P.No.2825 of 2013 & C.R.P.No.4499 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2024

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.2825 of 2013
and
C.R.P.No.4499 of 2011

W.P.No.2825 of 2013

B.Dhandayuthapani

... Petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable Endowments Board,
Nungambakkam,
Chennai – 34.

2.The Assistant Commissioner,
HR & CE, Manjakuppam,
Cuddalore.

3.The Sub Registrar
Srimushnam, Cuddalore District.

... Respondents

C.R.P. No. 4499 of 2011

P.Rajendran

... Petitioner

Vs.

Sri Sri Suyatheendra Theertha Sripadulavaru
Peedathipathi of Jagadguru Sriman
Madhavacharya Moola Maha Samasthanam
Nanjangud Sri Sri Ragavendra Swamy Math
At Mantralayam,
Andra Pradesh,
Rep by Special Power of Attorney Holder



W.P.No.2825 of 2013 & C.R.P.No.4499 of 2011

V.Baskaran,
S/o. K.Venkataramana Rao,
Kumbakonam.

... Respondent

Prayer in W.P.No.2825 of 2013: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent dated 22.10.2012 in Na.Ka.No.2383/2012-A4 and quash the same and direct the 3rd respondent to register the sale deed of the petitioner in pending Document No.11/2011 on his file.

Prayer in C.R.P.No.4499 of 2011: Civil Revision Petition is filed under Section 115 C.P.C., against the Fair and decretal order dated 19.08.2011 passed in Trust OP No.28 of 2010 on the file of Principal District Judge, Cuddalore whereby rejected the offer made by the Petitioner and allowed the Trust OP No.28 of 2010 in favour of the Respondent.

In W.P.No.2825 of 2013

For Petitioner : Ms.Hema Sampath
Senior Counsel
for M/s.R.Meenal

For Respondents : Mr.N.R.R.Arun Natrajan
Special Government Pleader

C.R.P. No. 4499 of 2011

For Petitioner : Mr.C.Prakasam

For Respondent : Ms.Hema Sampath
Senior Counsel
for M/s.R.Meenal



WEB COPY

COMMON ORDER

Since the issue involved in the writ petition and the civil revision petition are interconnected, with the consent of the learned counsel appearing for the parties, these revisions were heard together and disposed of by this common order.

2. A land to an extent of 3000 sq.mts originally belonging to Sri Jagadguru Sriman Madhwacharya Moola Maha Samasthanam, Nanjangud Sri Sri Raghavendra Swamy Math, Nanjangud with a branch known as Sri Viyayeendra Swamy Math at Kumbakonam and the same is being administered by the present Peetathipathi. The Math filed a petition in Trust O.P.No.28 of 2010 before the Principal District Court, Cuddalore seeking permission to sell the petition mentioned property to one Dhandayudhapani/petitioner in W.P.No.2825 of 2019 for due consideration of Rs.34,00,000/-. However, one Rajendiran/petitioner in C.R.P.No. 4499 of 2011 had filed a counter in the said OP stating that he is making an offer of Rs.40,00,000/- for buying the said property. Thereafter, the said petition was allowed vide order dated 19.08.2011 granting permission to the Math to sell the land for a consideration of not



W.P.No.2825 of 2013 & C.R.P.No.4499 of 2011

less than Rs.40,00,000/- in favour of the writ petitioner. Challenging the same, C.R.P.No.4499 of 2011 has been filed. Subsequently, on 11.11.2011, the writ petitioner paid Rs.40,10,000/- by way of demand drafts and a sale deed was executed by the Math in favour of his family members and himself and registered by the SRO, Srimushnam. The Sub Registrar kept the document as pending registration Document No.11/2011 and refused to register it. Thereby, an appeal has been filed before the District Registrar, Vridhachalam u/s 72 of the Registration Act and the same pending. Thereafter, with great difficulty, the writ petitioner obtained a copy of the order passed by the Sub Registrar, Srimushnam on 20.11.2012, in which, it is mentioned that the land was Government Poromboke, which is erroneous as the land is referred to as Oor Natham and the writ petitioner and his ancestors have been in possession for well over five decades. Thereafter, the 2nd respondent issued proceedings in Na.Ka.No.2383/2012/A4 dated 22.10.2012 mentioning that the land was Sarkar Poromboke land belonging to the Math and it could be utilized only for the purpose for which it was kept and that permission could not be given for its sale. Challenging the same, W.P.No.2825 of 2013 has been filed before this court.



WEB COPY

3. Though very many grounds have been raised in the writ petition, when the matter is taken up for hearing today, learned Senior Counsel appearing for the writ petitioner submitted that, without going into the merits of the case, this court may permit the writ petitioner/Math to file appropriate application before the 1st respondent u/s 34 of the HR & CE Act with regard to alienation of the subject property. Upon filing, the 1st respondent may be directed to consider the same and pass appropriate orders within a reasonable time that may be fixed by this court.

4. Learned Special Government Pleader appearing for the respondents in the writ petition submitted that the property situated within the jurisdiction of Tamil Nadu and Math is situated in the State of Andhra Pradesh, which is beyond jurisdiction, however, the property is coming under the purview of Explanation to Section 6(13) of the Act. Further, he submitted that no application can be maintained before the District Court u/s 7, 8, 9 & 10 of the Charitable and Religious Endowments Act and the said Act itself excluded from the purview of the



W.P.No.2825 of 2013 & C.R.P.No.4499 of 2011

HR & CE Act and the same is not applied in terms of Section 5 of the Act. Hence, the order passed by the Principal District Judge, Cuddalore may be set aside.

5. Learned Senior Counsel appearing for the respondent in CRP submitted that, the revision petitioner had passed away and his legal heirs were not impleaded as party. Hence, the CRP may be dismissed as abated.

6. Considering the submissions advanced by either side and also the limited request made by the learned Senior Counsel appearing for the writ petitioner, this court grants liberty to the writ petitioner to file appropriate petition u/s 34 of the Act before the Commissioner, HR & CE Board within a period of two weeks from the date of receipt of a copy of this order. If such application is filed, the Commissioner is directed to consider the same, on merits and in accordance with law and pass appropriate orders, as expeditiously as possible.

7. Insofar as the issue that arises in the civil revision petition is whether the property of the Math which is situated in Tamil Nadu is



coming under the purview of the HR & CE Act or not ?

WEB COPY

8. For better appreciation, the Explanation to Section 6(13) of the TN HR & CE Act, 1959 and Section 5 of the Charitable and Religious Trusts Act, 1920 are extracted hereunder :-

“Explanation : Where the head quarters of a Math are outside the State but the Math has properties situated within the State, control shall be exercised over the Math in accordance with the provisions of this Act, in so far as the properties of the Math situated within the State are concerned.”

“5. Procedure on petition – (1) If the court on receipt of a petition under section 3, after taking such evidence and making such inquiry, if any, as it may consider necessary, is of opinion that the trust to which the petition relates is a trust to which this Act applies, and that the petitioner has an interest therein, it shall fix a date for the hearing of the petition, and shall cause a copy thereof, together with notice of the date so fixed, to be served on the trustee and upon any other person to whom in its opinion notice of the petition should be given.

(2) On the date fixed for the hearing of the petition, or on any subsequent date to which the hearing may be adjourned, the Court shall proceed to hear the petitioner and the trustee, if he appears, and any other person who has appeared in consequence of the notice, or who it considers ought to be heard, and shall make such further inquiries, if any, as it thinks fit. The trustee may and, if so required by the Court, shall at the time of the first hearing or within such time as the Court may permit present a written statement of his case. If he does present a written statement, the statement shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1908 (5 of 1908), for signing and verifying pleadings.

(3) If any person appears at the hearing of the petition and either denies the existence of the trust or denies that it is a trust to which this Act applies, and undertakes to institute within three months a suit for a declaration to that effect and for any other appropriate relief, the Court shall order a stay of the proceedings and, if such suit is so instituted, shall continue the stay until the suit is finally decided.

(4) If no such undertaking is given or if after the expiry of the three months no such suit has been instituted, the Court shall



itself decide the question.

(5) On completion of the inquiry provided for in sub-section (2), the Court shall either dismiss the petition or pass thereon such other order as it thinks fit:

Provided that, where a suit has been instituted in accordance with the provisions of sub-section (3), no order shall be passed by the Court which conflicts with the final decision therein.

(6) Save as provided in this section, the Court shall not try or determine any question of title between the petitioner and any person claiming title adversely to the trust.”

9. A perusal of the above, makes it clear that where the head quarters of a Math are outside the State but the Math has properties situated within the State, control shall be exercised over the Math in accordance with the provisions of the HR & CE Act. If the property is situated within the State, notwithstanding the Math being in another State, the said properties would come under the purview of the HR & CE Act, and Section 5 of The Charitable and Religious Trusts Act, 1920 may not be applicable. In such view of the matter, the order passed by the Principal District Judge, Cuddalore in Trust O.P.No.28 of 2010 dated 19.08.2011 cannot be sustained.

10. Though it is brought to the notice of this Court that the revision petitioner has since died and his legal heirs has not been brought



W.P.No.2825 of 2013 & C.R.P.No.4499 of 2011

on record and, therefore, the revision petition is liable to be dismissed as abated, however, the said contention cannot be accepted for the reason that this Court has considered the legal provision which strikes at the root of the order passed by the court below and the availability of the revision petitioner would in no way be of any assistance to the court, as the maintainability of the Trust OP is put in issue, which, as discussed above by this Court, reveals that a Trust OP is not maintainable insofar as properties of a Math, which is outside the jurisdiction of the State, are available within the State. Therefore, necessarily, the order passed in the Trust OP deserves to be set aside.

11. In the result, the Writ Petition is dismissed with the above liberty and the Civil Revision Petition is allowed with the aforesaid observation. No costs. Consequently, the connected miscellaneous petitions are closed.

03.09.2024

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
sp



WEB COPY



W.P.No.2825 of 2013 & C.R.P.No.4499 of 2011

M.DHANDAPANI, J.

sp

To

- 1.The Commissioner,
Hindu Religious and Charitable Endowments Board,
Nungambakkam,
Chennai – 34.
- 2.The Assistant Commissioner,
HR & CE, Manjakuppam,
Cuddalore.
- 3.The Sub Registrar,
Srimushnam, Cuddalore District.

W.P.No.2825 of 2013
and
C.R.P. No.4499 of 2011

03.09.2024