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C.R.P.(PD).No.1779 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:19.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.1779 of 2019
and CMP.No.11610 of 2019

K.Shanmugavel Mudaliar

... Petitioner

vs.

1.The Commissioner,
Hindu Religious and Charitable Endowment
Administration Department,
Chennai – 600 034.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowment
Administration Department,
Chennai – 600 034.

... Respondents

Prayer: Civil Revision Petition filed under Section 227 of the Constitution of India, praying to set aside the fair and decree order passed dated 04.06.2018 and made in I.A.No.434 of 2017 in O.S.No.160 of 2017 on the file of the Subordinate Judge, Tambaram.

For Petitioner	: Mr.K.Shanmugavel Mudaliar Party-in-Person
For Respondents	: Mr.N.R.R.Arun Natarajan Special Government Pleader (HR&CE)



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ORDER

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The Civil Revision Petition is filed challenging the order passed by the trial Court dismissing the application filed by the petitioner seeking stay of further proceedings in pursuance of the order passed by the second respondent dated 27.02.2009 as confirmed by the first respondent in A.P.No.18 of 2009 by his order dated 29.05.2017.

2. The petitioner herein is the Managing Hereditary Trustees of Sri Agastheeswarar Temple, Pozhichalur, Chennai. The second respondent herein initiated disciplinary proceedings against him by framing various charges against the petitioner including violation of Section 34 of Tamil Nadu Hindu Religious and Charitable Endowments Act (hereinafter called as HR&CE Act for brevity) and alienation of temple properties. The second respondent found petitioner violated Section 34 of the HR and CE Act and alienated temple properties and hence passed order for his removal from the post of Hereditary Trusteeship and appointment of fit person. Aggrieved by the said order, the petitioner herein filed an appeal in A.P.No.18 of 2009 on the file of Commissioner HR and CE. The Appellate Authority namely the



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Commissioner HR and CE also agreed with the findings rendered by the original authority namely the second respondent and dismissed the appeal by order dated 29.05.2017. Aggrieved by the same, the petitioner herein filed statutory suit under Section 53(6) of HR and CE Act. Pending the said statutory suit, petitioner seeks stay of the order passed by the second respondent as confirmed by the first respondent. The trial Court dismissed the said stay application and aggrieved by the same, the petitioner is before this Court.

3. The petitioner appearing in person submitted that the trial Court failed to see that Apex Court granted status-quo in favour of the petitioner in SLP(C).No.13861 of 2009 and consequently, the respondents are not entitled to proceed further. He further submitted that order passed by the Apex Court in SLP(C).No.9075 of 2017 was also not properly appreciated by the trial Court, while considering the stay application. He further submitted that the order passed by the first respondent in A.P.No.18 of 2009 is against the order passed by the Apex Court in SLP(C).No.9075 of 2017. In substance, it is the contention of the petitioner that impugned order in this revision is



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liable to be set aside for the simple reason that it violates the order passed by the Apex Court in SLP(C).No.13861 of 2009 and SLP(C).No.9075 of 2017.

4. Per contra, Mr.N.R.R.Arun Natarajan, learned Special Government Pleader (HR and CE) appearing for the respondents would submit that the order passed by the Apex Court in SLP(C).No.13861 of 2009 is arising out of an order passed by the second respondent recognising certain other individuals as Hereditary Trustees of temple in question and the said Special Leave Petition is nothing to do with the removal of the petitioner on proved charges. He further submitted that the petitioner herein challenging his removal filed an appeal before the first respondent and sought for interim stay of second respondent's order. Against refusal to grant stay, he filed writ a petition in W.P.No.10320 of 2009 and the same was dismissed. Aggrieved by the same, the petitioner filed a writ appeal in W.A.No.1161 of 2019 and the same was disposed with a direction to the first respondent to dispose the appeal filed by the petitioner in A.P.No.18 of 2009. Challenging the said order passed in writ appeal, the petitioner preferred SLP(C).No. 9075 of 2017 and an interim order was passed by the Apex Court on 08.05.2017



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stating that any order passed in the meanwhile would be subject to result of the special leave petition. Therefore, it is the submission of the learned Special Government Pleader that the order passed in SLP(C).No. 9075 of 2017 only makes it clear that any order passed in interregnum period is subject to final result of special leave petition and there was no prohibitory orders restraining the respondents from proceeding further. In such circumstances, the order passed by the trial Court dismissing the stay application filed by the petitioner cannot be interpreted as violation of the order passed by the Apex Court. The learned Special Government Pleader further submitted that the petitioner was found to be acting against interest of the temple by alienating the temple properties and hence the trial Court rightly dismissed the petition for interim protection.

5. In the light of the submission made by the petitioner/party-in-person and the learned Special Government Pleader appearing for the respondents, it has to be seen, whether the impugned order passed by the trial Court would amount to violation of the order passed by the Apex Court in SLP(C).No.13861 of 2009 and SLP(C).No. 9075 of 2017.



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6. The second respondent by its order dated 29.05.2008 recognized one Varalakshmi and six others as Hereditary Trustees of Sri Agastheeswarar Temple, in the place of deceased Hereditary Trustees D.S.Subramania Mudaliar and D.S.Murugesan Mudaliar. Aggrieved by the recognition of above said persons as Hereditary Trustees, the petitioner herein filed writ petition in W.P.No.14929 of 2008 and the same was dismissed by the learned Single Judge of this Court by giving liberty to the petitioner to avail appeal remedy under Section 54(4) of HR and CE Act. Aggrieved by the said dismissal order, the petitioner preferred an intra Court appeal in W.A.No.1504 of 2008. The intra Court appeal filed by the petitioner was dismissed by the Division Bench of this Court by order dated 12.05.2009. Aggrieved by the same, the petitioner preferred Special Leave Petition before the Apex Court in SLP(C).No.13861 of 2009. In the said Special Leave Petition, the Apex Court by order dated 02.06.2009 passed following order:

“ Issue Notice.

*Status-quo as of today shall be maintained in
the meantime.”*



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7. Therefore, the status-quo order passed by the Apex Court in SLP.No.13861 of 2009 is not relating to the removal of the petitioner and appointment of fit person which is the subject matter of present statutory suit in O.S.No.160 of 2017 on the file of the Subordinate Court, Tambaram. The status-quo order passed by the Apex Court is only with regard to the order recognising one Varalakshmi and others as Hereditary Trustees of the temple in question. Hence, the order passed by the trial Court refusing to stay further proceedings by the respondents in a matter involving removal of the petitioner and appointment of fit person on the ground of misconduct would not amount to violation of the status-quo order passed in SLP(C).No.13861 of 2009.

8. The next question that has to be decided is whether the impugned order would amount to violation of interim order passed in SLP(C).No. 9075 of 2017, dated 08.05.2017. The second respondent in his proceeding dated 27.02.2009 found serious charges framed against the petitioner were proved and hence by exercising his power under Section 53(2) of HR and CE Act removed the petitioner from the post of Hereditary



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Trusteeship and appointed fit person. Aggrieved by the same, the petitioner preferred an appeal in A.P.No.18 of 2009 on the file of first respondent. It is seen from the records that aggrieved by the refusal of stay in I.A.No.1 of 2009 in A.P.No.18 of 2009, the petitioner filed a writ petition in W.P.No.10320 of 2009 and the same was dismissed on 28.07.2009. Aggrieved by the dismissal of said writ petition, the petitioner preferred an intra Court appeal in W.A.No.1161 of 2009. The said writ appeal was disposed by order dated 11.01.2017 by First Bench of this Court directing the first respondent to dispose appeal in A.P.No.18 of 2009. Challenging the said order, the petitioner preferred special leave petition in SLP.No. 9075 of 2017. An interim order was passed by the Apex Court in SLP(C).No. 9075 of 2017 and the same reads as follows:

*Mr.Vikas Singh Jangra, Advocate, appears
and accepts notice for the caveator(s).*

*“Any order passed in the meanwhile will be
subject to the result of this Special Leave Petition.”*

Tag with C.A.No.789 of 2017.



9. A perusal of the above interim order would suggest the Apex

Court has not prohibited the respondents from proceeding further, but, however, it was made clear that any order passed would be subject to the result of the Special Leave Petition. It is stated by the parties that Special Leave Petition is still pending. Therefore, there is no impediment for the respondents to proceed further as per the order passed by the Apex Court. However, any order passed by the respondents would be subject to the result of the special leave petition. Subsequent to the above order, the first respondent dismissed the appeal in A.P.No.18 of 2009 by confirming the findings of the second respondent. Aggrieved by the said order, the petitioner preferred the present statutory suit. In the statutory suit, by filing instant application, the petitioner seeks stay of further proceedings in pursuance of the order passed by the second respondent as confirmed by the first respondent. The trial Court taking into consideration the adverse finding against the petitioner in the disciplinary proceedings, came to conclusion that the petitioner has not made out a case for grant of interim prayer prohibiting the respondents from proceeding further. As mentioned earlier, the Apex Court has not granted any prohibitory orders restraining the respondents from



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proceeding further. The orders of respondents are only made subject to the result of Special Leave Petition. In such circumstances, the trial Court rightly came to the conclusion that interim order passed in the Special Leave Petition will not come in the way of respondents proceeding further.

10. It is seen from the order passed by the second respondent dated 27.02.2009, the charges made against the petitioner were found to be proved. The second respondent came to the conclusion that the petitioner alienated the properties of the temple, violating Section 34 of Tamil Nadu HR and CE Act and caused loss to the temple. Taking into consideration the said adverse findings against the petitioner by the second respondent and also the order passed by the first respondent confirming said findings, the trial Court rightly refused to exercise the discretion in favour of the petitioner by declining to stay further proceedings by the respondents.

11. I do not find any perversity or error of jurisdiction in the order passed by the trial Court, enabling this Court to exercise its power under revision.



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12. The submission made by the petitioner that the further proceedings by respondents would amount to violation of order passed by the Apex Court in the above mentioned Special Leave Petitions is not well founded. If the petitioner's submission is correct, he need not to have filed a petition seeking stay of further proceedings before the trial Court.

13. Finally, a faint attempt was made by the petitioner by submitting that temple in question would not come under the purview of the HR and CE Act. It is seen from the documents filed in the typed set of papers, the petitioner herein was recognised as one of the Hereditary Trustees of the temple in question on death of his father viz., Kumarasamy Mudaliar by order of the second respondent dated 08.10.1998. The petitioner having moved the HR and CE Department under Section 54(1) of the Act for his recognition as Hereditary Trustee, after death of his father cannot turn around and say the temple would not come within the purview of HR and CE Act and hence the respondents are not entitled to proceed against him.



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14. In view of the discussions made earlier, I do not find any reason to interfere with the order passed by the trial Court, dismissing the application filed by the petitioner seeking stay of further proceedings by the respondents. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

19.03.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
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To
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The Subordinate Judge,
Tambaram.



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S.SOUNTHAR, J.

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