



W.A(MD)No.839 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.04.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

**W.A(MD)No.839 of 2024
and
C.M.P(MD)No.6258 of 2024**

- 1.M.Periyathambi
- 2.Rangasamy
- 3.T.Udaiyapan
- 4.R.Annadurai
- 5.P.Seenivasan
- 6.M.Balasundaram
- 7.A.M.Periyathambi Konar
- 8.V.P.Ramasamy
- 9.M.Singaram
- 10.R.Sakthivel
- 11.K.Chinnathurai
- 12.C.Jeyaras
- 13.R.Periyasamy
- 14.P.Rajkumar
- 15.P.Annathurai

... Appellants/3rd Parties

vs.

- 1.Natarajan

... 1st Respondent/Writ Petitioner

- 2.The Commissioner,
Hindu Religious and Charitable Endowment Department,
Chennai – 34.



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3.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Office of Joint Commissioner,
Thanjavur.

4.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Office of the Assistant Commissioner,
Thanjavur.

5.The Executive Officer,
A/m.Durgai Amman Thirukovil,
Palathali,
Thanjavur District.

... Respondents 2 to 5/
Respondents 1 to 4

PRAYER : Writ Appeal filed under Clause 15 of Letters Patent to set aside the order in W.P(MD)No.19990 of 2023 dated 26.09.2023 by allowing the Writ Appeal.

For Appellants

: Mr.M.Ajmal Khan
Senior Counsel
for M/s.Ajmal Associates

For Respondents

: Mr.G.Sridharan
for R.1

: Mr.P.Subbaraj
Special Government Pleader
for R.2 to R.5



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JUDGMENT

[Judgment of the Court was made by R.SURESH KUMAR, J.)

This Writ Appeal has been directed against the order passed by the Writ Court, dated 26.09.2023 made in W.P(MD)No.19990 of 2023.

2.Heard Mr.M.Ajmal Khan, learned senior counsel appearing for the appellants, Mr.G.Sridharan, learned counsel appearing for the first respondent and Mr.P.Subbaraj, learned Special Government Pleader appearing for the official respondents 2 to 5.

3.It is the claim of the appellants herein, as projected by the learned senior counsel, that already there has been a compromise decree in L.P.A, where the right of getting respect has been conferred on a particular community and these appellants belong to the said community. The administration has been given to other communities.



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4. When that being so, in the Judgment impugned since the learned Judge relegated the first respondent/writ petitioner to go before the Commissioner, HR & CE/Joint Commissioner, HR & CE under Section 64(5) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (in short hereinafter referred to as 'the Act') to seek for framing a scheme and in that case, if any such petition is filed under Section 64 of the Act before the Commissioner/Joint Commissioner without impleading the present appellants as parties and if any orders are passed by the Commissioner, HR & CE/Joint Commissioner, HR & CE, that will go against the interest of the appellants and their community in whose favour already a compromise decree passed in L.P.A, therefore, in order to challenge that portion of the order impugned passed by the Writ Court, as a third party appeal, the Writ Appeal has been filed.

5. Since the learned counsel appearing for the first respondent/writ petitioner also appeared before this Court on behalf of the first respondent, who is the writ petitioner and he would submit that already pursuant to the direction given by the learned Single Judge through the impugned order, petition has been filed under Section 64 of the Act, where, of course, these present appellants have not been arrayed as parties, but if



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these appellants have come forward to file a necessary application to implead themselves in the said application before the Commissioner, HR & CE/Joint Commissioner, HR & CE, the first respondent/writ petitioner does not have any objection in allowing such an impleading petition, where after impleading themselves, let the Commissioner or Joint Commissioner concerned can consider such an application filed by the first respondent/writ petitioner under Section 64 of the Act as directed by the writ Court through the impugned order.

6.In view of the said stand taken by the learned counsel appearing for the first respondent/writ petitioner, the learned senior counsel appearing for the appellants submits that immediately such a petition for impleading themselves before the Commissioner, HR & CE Department/Joint Commissioner, HR & CE would be filed in the pending Section 64 application filed by the first respondent/writ petitioner in O.A.No.6 of 2024.

7.We have taken note of these submissions made by the learned counsel appearing for the parties as well as the learned Special Government Pleader appearing for the HR & CE Department.



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8. In view of the said stand taken by the learned counsel appearing for the appellants as well as the first respondent/writ petitioner, we are of the view that this Writ Appeal can be disposed of with the following orders:

'(i) That it is open to the appellants to file a necessary petition for impleading in O.A.No.6 of 2024 pending on the file of the Joint Commissioner, HR & CE ie., the third respondent herein.

(ii) If such an application is filed by the appellants, as the first respondent/writ petitioner herein, who filed the said application in O.A.No.6 of 2024 will have no objection, the same shall be allowed by the Joint Commissioner/third respondent, thereafter, after giving due opportunity to the both sides, the issue raised therein can be decided on merits and in accordance with law.'



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9. With these directions and observation, this Writ Appeal is disposed of. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

[R.S.K.,J.] [G.A.M.,J.]
24.04.2024
(1/3)

NCC : Yes / No
Index : Yes / No
ps

To

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Chennai – 34.
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ps

ORDER MADE IN
W.A(MD)No.839 of 2024

DATED : 24.04.2024
(1/3)