



W.A.(MD) No.157 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.02.2024

CORAM:

THE HONOURABLE **MR.JUSTICE D.KRISHNAKUMAR**
AND
THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

W.A.(MD)No.157 of 2024
and
C.M.P.(MD)No.1345 of 2024

K.Rajaram

... Appellant

-Vs-

1.The Joint Commissioner,
Tamil Nadu Hindu Religious and Charitable
Endowment Department,
Madurai District.

2.K.Ravichandran
3.Sumathi

... Respondents

PRAYER: Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the order dated 21.09.2023 passed in W.P.(MD)No.9063 of 2023 on the file of this Court.

For Appellant	: Mr.R.G.Shankar Ganesh
For R1	: Mr.S.P.Maharajan, Special Government Pleader
For R2	: Mr.S.Madhavan



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JUDGMENT

[Judgment of the Court was delivered by *D.KRISHNAKUMAR, J.*]

This Writ Appeal is directed against the order dated 21.09.2023 made in W.P.(MD)No.9063 of 2023 on the file of this Court.

2. According to the appellant / writ petitioner, his father, namely, Karuppan Chettiar filed O.A.No.11 of 2007 to declare the office of trusteeship in respect of Arulmigu Nagammal Temple, Melur Taluk, Madurai District as hereditary trustee under Section 63(b) of Act 22 of 1959 before the 1st respondent, wherein the petitioner and five others filed impleading petition to implead them and the same was allowed. In the said application, the petitioner declined the hereditary trusteeship of his father. Pending the said O.A., the father of the petitioner died and therefore, they did not follow the proceedings and hence, the petitioner was set ex-parte in the said O.A. To set aside the said ex-parte order, the petitioner filed a petition, however, the authorities returned the same on the ground that final orders are passed in the said O.A. Challenging the same, the petitioner has filed the Writ Petition.



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3. Before the Writ Court, the petitioner took a stand that the petitioner is having a right to inherit his father's property and hereditary trusteeship is also to be considered as one of the properties and he should be given his rights. Since the petitioner claims to divide the hereditary trusteeship right treating the same as the property, the Writ Court disposed of the Writ Petition, giving liberty to file an appeal or suit before the appropriate forum. Challenging the same, the appellant is before this Court.

4. The learned counsel appearing for the appellant would submit that the order impugned in the Writ Petition is unsustainable and without jurisdiction.

5. Considering the submissions and facts and circumstances, we are of the view that the 1st respondent cannot have a right to reject the petition filed by the appellant to set aside the ex-parte order on the ground that orders have been passed in the said O.A. Therefore, the rejection order dated 05.04.2023 passed by the 1st respondent, which was impugned in the Writ Petition is set aside and the same is remanded back to the 1st respondent to consider the application of the petitioner, if it is otherwise in order and pass appropriate orders, on its own merits and in accordance with law, after providing opportunity to the parties.



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6.In view of the same, the impugned order passed by the Writ Court is also liable to be dismissed, accordingly, it is dismissed. This Writ Appeal stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.] & [R.V., J.]
12.02.2024

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

Yuva

To

The Joint Commissioner,
Tamil Nadu Hindu Religious and Charitable
Endowment Department,
Madurai District.



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AND

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