



W.A(MD)No.981 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.06.2024

CORAM :

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

**W.A(MD)No.981 of 2024
and
C.M.P(MD)Nos.7101 and 7105 of 2024**

S.Selvam

... Appellant

vs.

1. The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Dindigul.

2. The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Dindigul.

3. The Executive Officer,
Hindu Religious and Charitable Endowment Department,
Thadikombu, (Fit Person,
Arulmigu Sri Kaliamman,
Sri Mariamman Thirukovil,
Vaiwespuram,
Nagaiahkottai Village,
Gujjiliamparai Taluk,
Dindigul District.

4. The Inspector of Police,
Eriyodu Police Station,
Dindigul District.



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5. R.Subramanian

... Respondents

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Prayer : Appeal filed under Clause 15 of the Letters Patent, against the order dated 22.04.2024 made in W.P(MD)No.17845 of 2023.

For Appellant : Mr.M.S.Sureshkumar
For R1 to R3 : Mr.P.T.Thiraviam, Government Advocate
For R4 : Mr.S.S.Madhavan
Government Advocate (Criminal Side)

JUDGMENT

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

This intra-court appeal has been directed against the order passed by the Writ Court dated 22.04.2024 made in W.P(MD)No.17845 of 2023.

2. That, the 5th respondent herein was appointed as a non hereditary trustee to a temple called, Arulmigu Sri Kaliamman, Sri Mariamman Thirukovil in Vaiwespuram, Nagaiahkottai Village, Gujjiliamparai Taluk, Dindigul District, by the orders of the 2nd respondent/Assistant Commissioner, Hindu Religious and Charitable Endowment Department, Dindigul, dated 30.06.2023, which was under question before the Writ Court.



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3. The learned Judge, who heard the writ petition, dismissed the same, by order impugned dated 22.04.2024, where, he has stated that, since there has been an appeal remedy available under the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, against the order passed by the Assistant Commissioner, which was impugned before him, he can go for appeal to assail the said order. That apart, on other grounds also, the writ petition was dismissed, against which, though this intra-court appeal has been directed, having gone through the materials placed before this Court, especially, the relevant provisions of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, [in short, 'HR & CE Act'], we find that under Section 21-A of the HR & CE Act, the Joint or Deputy Commissioner concerned, can call for records and examine the same with regard to any order passed by any Assistant Commissioner under the Act, provided, if an application to that effect, is filed within three months period, by the aggrieved party, to the said Joint or Deputy Commissioner concerned and modify, annul, reverse or remit the matter.

4. When such a clear statutory appeal remedy is available under the HR & CE Act, the petitioner should have invoked such an appeal provision and appeal should have been filed.



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5. Whenever there is an alternative efficacious appeal remedy provided under the statute, that should be first exhausted, without which, if a litigant approaches the High Court by invoking Article 226 of the Constitution, normally, that kind of writ petition should not be entertained by the High Court. This legal position has been reiterated in umpteen number of decisions of various High Courts as well as the Hon'ble Supreme Court.

6. When that being the position, the view taken by the learned Judge in dismissing the said writ petition among other grounds, mainly on the ground of non exhaustion of statutory appeal remedy available to the petitioner is to be accepted. Therefore, for the said simple reason alone, the order impugned passed by the learned Judge is not warranted to be interfered with.

7. In view of the afore-stated, we are inclined to dismiss this writ appeal. Accordingly, this Writ Appeal is dismissed, of course, with liberty to the appellant to approach the appellate authority under the provisions of the HR & CE Act, as has been discussed herein above. In case, the three months limitation under Section 21-A(5) of the HR & CE Act, expires already, the petitioner/appellant is hereby given liberty to file such an appeal within a period of two weeks from the date of receipt of a copy of this judgment and if



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such appeal is filed within the said stipulated time as indicated above, the same shall be entertained and proceeded by the appellate authority namely, Joint or Deputy Commissioner concerned.

8. If the petitioner/appellant wants to seek any urgent interim relief, that can also be sought for and in that case, it is for the appellate authority to decide the same on merits and in accordance with law, at the earliest.

9. With these observations and directions, the Writ Appeal is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

(R.S.K., J.)

(G.A.M., J.)

06.06.2024

Index : Yes / No

Neutral Citation : Yes / No

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Note : Issue order copy on 10.06.2024.

To

1. The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Dindigul.



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