



C.R.P(MD)No.2888 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.04.2024

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.2888 of 2018

and

C.M.P(MD)No.12477 of 2018

A.Periyasamy,
Hereditary Trustee of A/M Kamatchiamman
and Masi Perianna Swamy Temples,
B.Mettur Village,
Kallathukombai Village,
Thuraiyur Taluk,
Trichy District.

... Petitioner/Appellant

*(Hereditary Trustee of petitioner Temple is
substituted vide Court order, dated
27.02.2024 made in C.M.P(MD)No.16139 of
2023 in C.R.P(MD)No.2888 of 2018)*

Vs.

T.Muthusamy (Deceased)
by his Legal Heirs

1.T.Pratab

2.T.Thiruthanivel

... Respondents/Respondents



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PRAYER : Civil Revision Petition is filed under Section 115 of CPC., to set aside the order, dated 21.08.2018 in R.C.No.71919/2017 D2 on the file of the Commissioner, HR&CE Administration Department, Chennai and allow this Civil Revision Petition.

For Petitioner : Mr.N.Sathish Prabu

For R-1 : Mr.PT.S.Narendravasan

For R-2 : No appearance

ORDER

The present revision petition has been filed by the appellant in R.C.No.71919 of 2017 on the file of the Commissioner of HR&CE Department, Chennai. The present appellant herein had filed O.A.No.10 of 1987 before the Deputy Commissioner, HR&CE Department, Thiruchirappalli, claiming hereditary trusteeship over the administration of Arulmighu Kamatchiamman and Masi Periannasami Temples B.Mettur Village, Thuraiyur Taluk, Thiruchirappalli District. The said application was allowed on 30.11.1987.



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2. One T.Muthusamy had filed O.A.No.30 of 1990 before the Deputy Commissioner of HR&CE Department, Thiruchirappalli, claiming hereditary trusteeship to the Temple of Arulmighu Aalmuni @ Periyannasamy Temple situated at B.Mettur. In the said application, the revision petitioner herein has got impleaded as the respondent. However, he did not defend the said proceedings and he was set *ex parte*. Thereafter, the said application was allowed in favour of one T.Muthusamy on 05.06.1992. Challenging the said order, the revision petitioner herein had filed C.R.P(MD)SR.No.3530 of 2017. The revision petition was dismissed by this Court on 12.09.2017 on the ground that, the said revision petition is not maintainable and the revision petitioner has to file an appeal under Section 69 of HR&CE Act before the Commissioner of HR&CE Department.

3. Pursuant to the said orders, the revision petitioner herein had filed R.C.No.71919 of 2017 before the Commissioner with an application to condone the delay of 9157 days in filing an appeal under Section 69 (1) of the Tamil Nadu HR&CE Act, 1959. The said



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application came to be dismissed on the ground that, the revision petitioner has not properly explained the huge delay. Challenging the same, the present revision petition has been filed.

4. The learned Counsel appearing for the revision petitioner has contended that he has been declared as a hereditary trustee of Arulmighu Kamatchiamman and Masi Periannasami Temples in O.A.No.10 of 1987 by an order, dated 30.11.1987. Suppressing the same, O.A.No.30 of 1990 has been filed by T.Muthusamy. The Counsel engaged by the revision petitioner before the Deputy Commissioner of HR&CE Department had not followed up the said proceeding and hence, the petitioner was set *ex parte* and the order came to be passed. Thereafter, by mistake, the revision petitioner had filed a revision before this Court and the same was dismissed on the ground of maintainability and granting liberty to approach the Commissioner of HR&CE Department by way of an appeal. Therefore, though the delay is huge, the petitioner has properly explained the reasons. Hence, he prayed for allowing the revision petition.



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5. Per contra, the learned Counsel appearing for the respondent herein had contended that the petitioner after engaging a Counsel had not defended O.A.No.30 of 1990. The order was passed on 05.06.1992. The said order was challenged in revision petition before this Court only in 2016. On 12.09.2017, the civil revision petition was dismissed and thereafter, the present appeal has been filed before the Commissioner of HR&CE Department much belatedly. Therefore, they have not given any proper reasons for condoning the delay. Therefore, the order may be sustained.

6. I have carefully considered the submissions made on either side and perused the materials available on record.

7. A perusal of the order in O.A.No.10 of 1987 reveals that, one poosari A.Alagumuthuraja has been declared as the hereditary trustee of Arulmighu Kamatchiamman and Masi Periannasami Temples, **B.Mettur Village**, Thuraiyur Taluk, Thiruchirappalli. A perusal of O.A.No.30 of 1990 reveals that one T.Muthusamy had claimed himself to be the



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hereditary trustee of Arulmighu Aalmuni @ Periyannasamy Temple, B.Mettur, **Kallathukombai Village**, Thuraiyur Taluk, Thiruchirappalli District. The said Muthusamy had filed his counter to the condone delay application before the Commissioner of HR&CE Department. The relevant portion of the said counter is extracted as follows:

*"In the counter affidavit the respondents have stated that the averments of the petitioner that suppressing the order obtained by the petitioner in the year 1987 in O.A.No.10 of 1987, their grandfather has filed an O.A.No.30 of 1990 was denied. Only after coming to know that the petitioner is interfering with the management of the temple, their grandfather has initiated the Original Application and there is no chance of either their grandfather or they having knowledge of the order made in O.A.No.10 of 1987. **The Arulmighu Aalmuni Periyanna Swamy Temple is situated at the foot of Kollimalai Hills, Kalathukombai Village and whereas the said Arulmighu Kamatchiamman and Masi Periyanna Swamy Temple is situated 3 miles away from the former Temple at Vairichettypalayam.**"*



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8. A perusal of the orders in O.A.No.10 of 1987 and O.A.No.30 of 1990 will clearly establish that both the applications deal with two different Temples located in two different Villages. Even as per the counter of Mr.T.Muthusamy, Arulmigu Kamatchiamman and Masi Periannasami Temples are located three miles away from the Temple, for which, he had filed O.A.No.30 of 1990. Therefore, it is clear that the said Muthusamy cannot use the order granted in his favour in O.A.No.30 of 1990 to disturb the hereditary trusteeship of poosari A.Alagumuthuraja, which has been granted to him in O.A.No.10 of 1987.

9. In view of the above said facts, there are no merits in the Civil Revision Petition. This Civil Revision Petition stands dismissed with the above said observation. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

17.04.2024



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

To

- 1.The Commissioner, HR&CE Administration Department,
Chennai.
- 2.The Section Officer,
Vernacular Record Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR, J.

BTR

Order made in
C.R.P(MD)No.2888 of 2018

17.04.2024