



W.A(MD)No.1898 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.A(MD)No.1898 of 2023

and

C.M.P(MD)No.14496 of 2023

- 1.Periyasamy
- 2.Kootursamy Pandian
- 3.Shanmugaiah Pandian
- 4.Murugaiah
- 5.Durairaj
- 6.Ramesh Kumar
- 7.Kottur Murugan
- 8.Kottursamy

...Appellants/4 to 11 respondents

Vs.

- 1.U.Murugan
- 2.V.Karuppasamy
- 3.Kottursamy

... 1 to 3 respondents/writ petitioners

- 4.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Tirunelveli.

- 5.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Tirunelveli.

- 6.The Inspector,
Hindu Religious and Charitable Endowment Department,
Sankarankovil Range,
Tirunelveli.

... 4 to 6 respondents/ 1 to 3 respondents



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PRAYER : Appeal filed under Clause 15 of the Letters Patent Act, against the order passed in W.P(MD)No.7203 of 2020 dated 10.08.2023.

For Appellants :Mr.M.Vallinayaram, Senior Counsel for
M/s.D.Nallathambi

For R-1 to R-3 :Mr.C.Mayil Vahana Rajendran

For R-4 to R-6 :Mr.S.P.Maharajan,
Special Government Pleader

JUDGMENT

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

This writ appeal has been filed by the appellants challenging the order of the Writ Court made in W.P(MD)No.7203 of 2020, dated 10.08.2023.

2. Brief facts of the case are as follows:

There is a dispute between two community people claiming right over a temple by name Arulmigu Thirukotti Ayyanar Temple, Perunkottur and in this regard, it was decided to frame a Scheme. For that, the respondents 1 to 3 herein/writ petitioners have filed their objection before the Joint Commissioner, HR & CE Department and the said objection was rejected by the Joint Commissioner and therefore, they have filed the writ petition before the Writ Court on the ground that the authority has not



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provided opportunity to the writ petitioners and therefore, there is violation of principles of natural justice. Further, the procedure contemplated under Section 101 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (in short 'the Act') was not followed by the Joint Commissioner at the time of passing the order. The said writ petition came to be allowed. Challenging the same, the appellants/respondents 4 to 11, have filed the present writ appeal before this Court.

3. The learned counsel appearing for the appellants would contend that the Writ Court has passed the order without appreciating the case of the appellants and there is specific provision under the HR & CE Act, to file an appeal before the Appellate Authority namely Commissioner of HR & CE Department and therefore, on the said ground alone the writ appeal came to be allowed.

4. The learned counsel appearing for the respondents 1 to 3/writ petitioners would contend that the writ petitioners have made objections before the Joint Commissioner, HR & CE Department and the same was also considered by the invoking the provision under Section 64 of the HR & CE Act and accepting the said fact, the writ Court has rightly quashed the order of the Joint Commissioner. Therefore, the said order of the Writ Court does not require interference.



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5. We have heard the learned counsel appearing on either side and perused the materials placed before us.

6. The short point arises for consideration in this writ appeal is whether there is violation of principles of natural justice to interfere with the order of the Joint Commissioner.

7. According to the learned Senior Counsel appearing for the appellants, the Joint Commissioner has passed a detailed order by rejecting the objection of the respondents 1 to 3/writ petitioners under Section 64 of the HR & CE Act and therefore, the contention of the respondents 1 to 3/writ petitioners that their impleading application has been rejected and therefore, there is violation of principles of natural justice, would not attract in the present case.

8. Even though the respondents/writ petitioners has made an attempt to satisfy this Court that there is violation of principles of natural justice, on going through the order passed by the Joint Commissioner in O.A.No.8 of 2000, dated 24.03.2020, it is seen that the objection raised by the writ petitioners have been considered and rejected by the Joint Commissioner and therefore, there is no violation of principles of natural justice. Further, there is appeal provision under Section 69 of the HR & CE



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Act and all these disputed factual issues have to be decided before the appellate authority and not under Article 226 of the Constitution of India.

9. Further, in the affidavit filed in support of this writ petition, the writ petitioners have stated that due to Covid-19 pandemic situation, the writ petitioners could not file the appeal before the Commissioner, HR & CE Department and by taking advantage of the said situation, the respondents Nos.4 to 11 ie., the appellants took steps to publish the Scheme.

10. However, at this stage, we are not inclined to go into the merits of the case in the writ petition or the writ appeal. Therefore, in view of the provisions under Section 69 of the HR & CE Act, the respondents 1 to 3/writ petitioners, have to approach the appellate authority and all these factual disputes have to be raised before the Commissioner, HR & CE Department under the said provision.

11. In view of the above discussions, the impugned order passed by the learned Single Judge, is liable to be set aside.

12. In the result, this writ appeal is allowed and the order of the learned Single Judge passed in W.P(MD)No.7203 of 2020, dated 10.08.2023, is hereby set aside. However, liberty is granted to the respondents



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1 to 3/writ petitioners, to file an appeal before the appellate authority, within a period of two weeks from the date of receipt of a copy of this judgment. On filing of such appeal, the Appellate Authority/Commissioner, HR & CE Department, shall dispose of the said appeal on its own merits without being influenced by any of the observations made in this judgment. No Costs. Consequently, connected Miscellaneous Petition is closed.

[D.K.K., J.] [R.V., J.]
07.03.2024

Neutral Citation: Yes / No
Index : Yes / No

PM

To:

- 1.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Tirunelveli.
- 2.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
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- 3.The Inspector,
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