



W.P.(MD) No.27386 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD) No.27386 of 2024

S.K.Sankara Subramanian

... Petitioner

/vs./

1.The Commissioner,
Hindu Religious and Charitable Endowment Board Department,
Chennai.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowment Board,
Palayamkottai Taluk,
Tirunelveli District 627 002.

3.The Inspector,
Ambasamutharam North,
Hindu Religious and Charitable Endowment Board,
Ambasamutharam,
Ambasamutharam Taluk,
Tirunelveli District.

4.Executive Officer,
Arulmigu Kailasanathar Temple,
Norht Ariyanayagipuram,
Cheranmahadevi Taluk,
Tirunelveli District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records in N.Ref.No. 9970/2021 dated 14.09.2023 related to the return of the petitioner's unnumbered appeal filed before the 2nd respondent and quash the same and direct the 2nd respondent to number the appeal.

For Petitioner : Mr.M.Murugan

For Respondents : Mr.P.Subbaraj
Special Government Pleader

ORDER

The writ petition has been filed challenging the order rejecting the appeal filed by the petitioner holding that there is no power to condone the delay in filing the appeal.

2. Mr.M.Murugan, learned counsel appearing on behalf of the petitioner would submit that by communication dated 18.12.2020, the fourth respondent herein had called upon the petitioner to hand over the possession to him, as he had been appointed as a Fit Person. The said proceedings had also referred to 4 communications of the Assistant Commissioner, HR & CE, Tirunelveli and the Inspector, Ambasamutharam.



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3. Being aggrieved against the same, the petitioner had immediately filed an appeal before the appellate authority on 05.01.2021. The same was returned by the office of the second respondent by indicating that the same had been filed with a delay of 1115 days and therefore, the Department was not empowered to condone the delay in filing the appeal. An endorsement was made on the return and the same was re-presented along with an application to condone the delay. However, without considering the same, the present impugned order had been passed.

4. He would submit that the appeal had been filed challenging the order dated 18.12.2020 and *inter alia* challenging the communications, which were referred to in the order impugned. He would submit that the petitioner was not aware of such proceedings till he received the communication dated 18.12.2020. Hence, there was no apparent delay on the part of the petitioner in filing the appeal. Therefore, he would seek interference of this Court with the orders of the appellate authority and direct the appellate authority to take the appeal on file and hear the same on merits and in accordance with law.



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5. Countering his arguments, Mr.P.Subbaraj, learned Special Government Pleader appearing on behalf of the respondents would contend that even though the order dated 18.12.2020 is challenged and an appeal was filed within the time, the petitioner had also *inter alia* challenged various other orders, for which the appeal could not be entertained, as the same is beyond the period of limitation. When that be so, by relying upon the judgment of the Hon'ble Supreme Court, he would further submit that the appellate authority does not have the power to condone the delay and therefore, he would submit that there is no necessity to interfere with the order impugned in this writ petition.

6. I have considered the rival submissions made by the learned counsel on either side.

7. Admittedly, the petitioner had been served with the communication dated 18.12.2020 from the fourth respondent to hand over the possession of the management and the properties of the temple, as he had been appointed as the Fit Person. A reading of the order, against which the appeal had been filed, does not



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indicate that the petitioner had been put on notice of the communication that had been referred to in the order dated 18.12.2020. The petitioner by an application under RTI was able to access the said orders and therefore, he had knowledge about the earlier orders only subsequent to the order impugned in this writ petition.

8. In such view of the matter, I do not find any delay on the part of the petitioner in approaching the appellate authority in filing the appeal against the orders indicated in the appeal. For such reasons, the order impugned in this writ petition is set aside. The first respondent is directed to take on file the appeal filed by the petitioner, which had been returned under the impugned order and decide the same on merits and in accordance with law.

9. In fine, the Writ Petition stands allowed. However, there shall be no order as to costs.

Index : Yes / No
Internet : Yes / No
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