

IN THE COURT OF THE SUBORDINATE JUDGE, MELUR.

Present: Tmt. M. SAMUNDEESWARI PRABHA, M.A., M.L.,

Tuesday, the 2nd day of December 2025

I.A.No.4/2025

in

O.S.No.207/2022

Karthikeyan

..... Petitioner/ 19th defendant

// Vs //

Sivaji Poosari

..... Respondent/Plaintiff

This petition coming up for final hearing before this court on 26.11.2025 in the presence of Advocate.Thiru.M.Gurudass, Advocate for the Petitioner/19th Defendant and Advocate.Thiru.G.Ramapandian, Advocate for the respondent/Plaintiff and upon hearing the enquiry on both sides and on perusal of the records and having stood over for consideration till this day, this court delivers the following :-

Orders

This petition has been filed Under Order 7 Rule 11 and Section 151 pass an order to reject the plaint of this petition.

1. Brief averments of the petition :-

(I) The petitioner herein is the 19th defendant in the original suit. The respondent/plaintiff this suit for declaration that the orders passed by the Commissioner of Hindu Religious and Charitable Endowment Administration Department, Chennai in AP No.81/2018, 82/2018 and 83/2018 dated 22.2.2020 as null and void. The said order is passed on 22.2.2020. There was an error in the said order in respect of section, which is mentioned as 69(1) instead of 69(3). The sub section (1) was deleted and inserted by sub section (3) by an order of erratum dated 17.2.2022. This suit is filed against the said order passed by the Commissioner of Hindu Religious and Charitable Endowment Administration Department, Chennai in AP No.81/2018, 82/2018 and 83/2018 dated 22.2.2020 only on 2.6.2022 (in filing No.351/2022) That is to say after elapse of 2 years, 4 months and 11 days (862 days), this suit in OS.207/2022 has been filed. Whereas section 69(3) of Tamil Nadu Hindu Religious and Charitable Endowments Administration Act 1959 prescribes a limitation period for filing a suit as provided in sub section (1) of Section 70 of Tamil Nadu Hindu Religious and Charitable Endowments Administration Act 1959, which is extracted hereunder:

"Section 69.Appeal to the Commissioner.(1) Any person aggrieved by any order passed by [the Joint Commissioner or the Deputy Commissioner, as the case may be], under any of the foregoing sections of this chapter, may within sixty days from the date of the publication of the order or of the receipt thereof by him as the case may be, appeal to

the Commissioner and the Commissioner may pass such order thereon as he thinks fit.

(2) Any order passed by [the Joint Commissioner or the Deputy Commissioner, as the case may be], in respect of which no appeal has been preferred within the period specified in subsection (1) may be revised by the Commissioner suo motu and the Commissioner may call for and examine the records of the proceedings as to satisfy himself as to the regularity of such proceedings or the correctness, legality or propriety of any decision or order passed by 1[the Joint Commissioner or the Deputy Commissioner, as the case may be]. Any such order passed by the Commissioner in respect of an order passed by [the Joint Commissioner or the Deputy Commissioner, as the case may be], shall be deemed to have been passed by the Commissioner on an appeal preferred to him under subsection (1).

3) Any order passed by the Commissioner on such appeal against which no suit lies to the Court under the next succeeding section or in which no suit has been instituted in the Court within the time specified in subsection (1) of section 70 may be modified or cancelled by the Commissioner if the order has settled or modified a scheme for the administration of a religious institution or relates to any of the matters specified in section 66."

(ii) The petitioner submit that a simple look at section 70(1) of the Hindu Religious endowment charitable Act, 1959 clarify that a suit against the order passed by the Commissioner ought to have been filed

within ninety days from the date of the receipt of such order by the respondent/plaintiff herein, which is extracted hereunder: -

"Section 70. Suits and appeals. (1) Any party aggrieved by an order passed by the Commissioner" (i) under subsection (1) or subsection (2) of section 69 and relating to any of the matters specified in section 63, section 64 or section 67; or (ii) under section 63, section 64 or section 67 read with subsection (1)(a), 2 or (4)(a) of section 22 or under section 65 may, within ninety days from the date of the receipt of such order by him, institute a suit in the Court against such order, and the Court may modify or cancel such order, but it shall have no power to stay of order of the Commissioner pending the disposal of the suit.

(2) Any party aggrieved by a decree of the Court under subsection (1), may, within ninety days from the date of the decree, appeal to the High Court."

(iii) This suit has been filed after elapse of 862 days from the date of order passed by the Commissioner in AP.No.81/2018, 82/2018 and 83/2018 and after elapse of 106 days after the passing an order of erratum in AP.No.81/2018, 82/2018 and 83/2018 on 17.2.2022. Anyhow, the suit is barred by limitation. Hence, the petitioner come forward with this application to reject the plaint on the ground of limitation. The petitioner prays to pass an order to reject the plaint. Hence this petition has to be allowed.

2. Brief averments of the counter affidavit filed by the respondent/plaintiff :-

(I) The respondent herein is the plaintiff in the main suit. The respondent has gone through the affidavit filed on the side of petitioner/19th defendant in support of his petition for an order to reject the plaint. The respondent has been filed the above suit under Section 70 of HR & CE Act for setting aside the common of the Commissioner passed in A.P.No.81,82 and 83/201/ (D-2) dated 22.02.2020 ratified the same through common order of Erratum in A.P.No.81, 82 and 83 of 2018 (D2) dated 17.02.2022 confirming the scheme order of the Joint Commissioner, HR & CE Administration Department, Madurai under Section 64(1) of the Act in O.A.No.22 of 2011.

(ii) As per Section 70 (1)(ii) of Endowments Act, the time prescribed for filing the suit is fixed as within 90 days from the date of receipt of such order. The 90 days period from the date of order is 17.05.2022. Since the date 17.05.2022 was holiday for summer vacation, the suit was filed on the first opening day as per law I.e 01.06.2022 within 90 days from the date of order itself, even though exclusion period was available till he obtain the certified copy of the said order. Section 115 of Endowments Act reads as follows "In computing the period of limitation prescribed under this Act for any proceeding, suit, appeal or application for revision against any order of decree passed under this Act, the time requisite for obtaining a certified copy of such order or decree shall be excluded." But he has filed this case within a period of 90 days from the date of order itself. Under these

circumstances, the allegations of the petitioner/19th defendant that this suit is barred by law of limitation is not correct and the claim for rejection of the plaint as if it is barred by limitation is not sustainable. This petition is not maintainable either in law or on facts. Hence this petition has to be dismissed with costs.

3. The point for consideration aroused is that:-

Whether the petition has to be allowed or not ?

4. Point :-

4.1 Both sides heard. Records perused. It is found that this petition has been filed for rejection of plaint on the ground of barred by law of limitation. It has been pleaded in this petition that the suit has been filed after the lapse of 106 days after passing an order of erratum in A.P.No.81/2018, 82/2018 and 83/2018 on 17.02.2022. Moreover the order passed by the HR & CE Commissioner in A.P.81/2018, 82/2018 and 83/2018 is dated 22.02.2020. Hence it is liable to be rejected.

4.2 Considering the counter and petition averments, this court finds that the petition for rejecting the plaint has been filed on the sole ground of law of limitation alone. Law of Limitation is a mixed question of law and facts need to be analysed only after the completion of full trial.

4.3 Moreover, at the time of passing of the order dated 22.02.2020 the period of limitation is alleged to be taken up for calculation, the suit has to be filed within a period of ninety days as per Section 70 of HR & CE Act. The Covid-19 Pandemic took the entire nation to a stand still from March 2020 till the end of 2021. There was a complete lockdown

not only in our national but also throughout the world. In our country, the national lockdown was declared in the 3rd week of March, 2021 and there is no complete court working.

4.4 Hence the Hon'ble supreme Court of India has extended the period of Limitation and finally the erratum was ordered by the HR & CE on 17.02.2022. Hence the suit has been filed on 01.06.2022 (ie) on the next working day since the last date falls on the holiday.

4.5 Hence all the above factors to be considered only after the full trial was over. The law of limitation being a mixture of facts and law to be decided after the full trial was over. Hence this application is not maintainable at this stage. Hence it is dismissed.

5. Result:-

In the result, this petition is dismissed. No costs.

Dictated to the Steno Typist by me, and typed by her directly, corrected and pronounced by me in open court, this the 2nd day of December 2025.

Sub Judge,
Melur.

Both sides of witness and documents : Nil

Sub Judge,
Melur.

**Draft/Fair Order
in
IA.No.4/2025
in
O.S.No.207/2022
Dt : 02.12.2025
Sub Court, Melur**