



W.A.(MD)No.2035 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :01.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.A.(MD)No.2035 of 2023

and

C.M.P.(MD)No.16208 of 2023

T.Ramesh

...Appellant

Vs.

1.Gopinath

2.The Joint Commissioner,
H.R.& C.E., Department,
Dindigul

...Respondents

PRAYER: Appeal filed under Clause 15 of Letters patent, against the order passed by in W.P.(MD)No.18622 of 2023 dated 01.09.2023.

For Appellant	: Mr.V.Chandrasekar
For R2	: Mr.M.Lingadurai
	Special Government Pleader



JUDGMENT

(Judgment of the Court was made by ***V.LAKSHMINARAYANAN, J.***)

Shorn of unnecessary details, the facts that are necessary for disposal of the writ appeal are as follows:

(i) There is a temple at Reddiar Chathiram, Dindigul District in the name of Arulmighu Gopinathasamy Thirukovil. The temple is an exempted temple and administered by the Board of trustees. The scheme for the temple attained finality by virtue of the decree passed in A.S.No.2 of 1942 dated 07.04.1943. This is a temple, where the Poosaries of the temple are the hereditary trustees. With these facts, there is no dispute between the writ petitioner and the appellant.

(ii) The ancestor of the writ petitioner and the appellant, one Subbaya Maniagarar had four wives. Through these four wives, he begot three sons. Between the descendents of Subbaya Maniagarar, there was a partition deed, which had been entered into on 10.03.1950. It is the claim of the appellant that by virtue of the partition deed, he is entitled to certain rights in the property. This was resisted by the writ petitioner before the civil Court and by way of a writ petition, on the ground that the right from 1950, till the order was passed by the



Hindu Religious and Charitable Department directing him to hand over the charge to the appellant, it was his branch of family, which was in possession and enjoyment of the poosariship rights. The learned Single Judge directed the parties to approach the Civil Court. Hence, the present appeal has been filed.

2.Insofar as the rights of the Hindu Religious and Charitable Endowment Department under Section 54 of the Act is concerned, it has been vested with the statutory rights to decide whether the office of a religious Institution is hereditary or not. The Hindu Religious and Charitable Endowments Act does not give the second respondent right to decide as to who should succeed to the office. This matter deals with civil rights and therefore, it can be gone into only by the competent civil Court in a properly instituted suit. This issue has already been settled by a series of judgment of this Courts. They are:

(i) ***Sastri Ammal Vs. Pravalavarna Naicker***, 1955 M.W.N.

865,

(ii) ***Chinnathambi Moopan and another Vs. Mamundi Moopan and another***, (1966) 1 M.L.J. 361,

(iii) ***A.Krishnaswami Raju Vs. Krishna Raja and another***, (1968) 1 M.L.J. 119,



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(iv) **Aviyur Mariamman Temple Vs. T.N.Sundaramoorthy Pillai and**

another, (1981) 1 M.L.J. 392 and

(v) **Karuppa Odayar Vs. A.Maruda Muthiriar and**

another, (2000) 1 M.L.J. 549.

3.This is especially so in the present case since there exists a partition deed and it is pleaded by the writ petitioner that the partition deed was not given effect insofar as the office of the hereditary poosariship is concerned.

4.The right as to who is to hold the office will have to be decided only by the civil Court by following the aforesaid verdicts. We do not find any error in the order of the learned Single Judge. Accordingly, this writ appeal is dismissed. It is left open to the parties to approach the civil court insofar as the rights of poosariship/trusteeship is concerned. No costs. Consequently, connected miscellaneous petition is closed.

(S.M.S., J.) & (V.L.N., J.)
01.12.2023

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AND

V.LAKSHMINARAYANAN, J.

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To

The Joint Commissioner,
H.R.& C.E., Department,
Dindigul

W.A.(MD)No.2035 of 2023

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