

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.04.2015

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The Hon'ble Mr.Justice M.Sathyannarayanan

W.P.No.12867 of 2015
and
M.P.Nos.1 and 2 of 2015

R.Thiruppathi

... Petitioner

Vs

1. The Joint Commissioner,
Hindu Religious and Charitable Endowment,
Administration,
Coimbatore, Coimbatore District.
2. The Assistant Commissioner,
Hindu Religious and Charitable Endowment,
Administration,
Erode, Erode District.
3. The Fit Person,
Arul Migu Kariaperumal Temple,
Paruvachi Village,
Bavani Taluk, Erode District.
having Office at Executive Engineer,
Arulmigu Bathira Kalliamman Temple,
Anthiyur, Erode District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking for a Writ Certiorarified Mandamus to call for records pertaining to the impugned notice, dated 01.04.2015, bearing Na.Ka.No.170/2014/A4, issued by the second respondent, and to quash the same, and consequently, to forbear the second respondent from appointing any non-hereditary fit person, pending disposal of the interim application, dated 15.04.2015, in O.A.No.2 of 2014, filed by the petitioner and other Trustees, which is pending before the first respondent.

For Petitioner : Mr.V.P.Karthikeyan

For Respondents : Mr.M.L.Mahendran,
Government Advocate for R1 & 2

O R D E R

By consent, the Writ Petition is taken up for final disposal.

2. The prayer in the Writ Petition is to quash the notice, dated 01.04.2015, issued by the second respondent, and consequently, to issue mandamus, forbearing him from appointing any non-hereditary fit person, pending disposal of the interim application, dated 15.04.2015, in O.A.No.2 of 2014, filed by the petitioner and other Trustees, on the file of the first respondent herein.

3. The petitioner along with 10 others on an earlier occasion filed W.P.No.365 of 2014, for issuance of Writ of Certiorari, to call for records relating to the impugned order, dated 18.09.2013, passed by the Assistant Commissioner, Hindu Religious and Charitable Endowment, Administration, Erode, Erode District, (viz., the second respondent herein) which was communicated vide proceedings dated 13.12.2013, under the Right to Information Act and to quash the same. In this connection, it would be beneficial to quote the operative portion of the order passed in the said Writ Petition:-

" Para No.16. In the light of the above reasoning, it is held that the impugned order is vitiated on the ground of violation of principles of natural justice and accordingly, the same is liable to be set aside and hereby, set aside and the matter is remanded to the third respondent for fresh consideration and the third respondent shall issue show cause notice to the petitioners and other (trustees), call for their objections, here the parties in person and thereafter, pass a reasoned order on merits and in accordance with law. The above directions shall be complied with, within a period of eight weeks from the date of receipt of a copy of this order.

Para No.17. At the time, when the writ petition was entertained, an interim order of status-quo was granted on 07.01.2014, which was extended on 08.08.2014. However, when the interim order was subsequently made absolute

on 13.11.2014, it was stated that the order of stay granted on 07.01.2014, and extended on 08.08.2014, was made absolute. This appears to be an inadvertent mistake, because, this Court initially on 07.01.2014, did not grant an order of interim stay, but granted only an order status-quo. Therefore, whatever is the status-quo prevailing as on date shall be maintained till the above direction is complied with by the third respondent. It is made clear that there shall not be any structural alteration of any of the properties of the Temple, the hundial shall not be opened and no other transactions pertaining to any of the properties both the movable and immovable properties of the Temple shall be undertaken in the meantime.

With the above directions, the writ petition is allowed and the impugned order is set aside. No costs."

4. The learned counsel appearing for the petitioner has drawn attention of this Court to the notice, dated 01.04.2015, issued by the second respondent and would submit that, in gross violation of the abovesaid orders, viz. the order rendered in W.P.No.365 of 2014, the present notice, came to be issued and prays for setting aside the said notice/order and remanding the matter to the second respondent for fresh adjudication.

5. This Court heard the submissions of Mr.M.L.Mahendran, learned Government Advocate, who accepts notice for the respondents.

6. This Court is of the view that the purport of the order has not been properly considered and hence, on the sole ground, inclined to quash the impugned notice, dated 01.04.2015.

7. Accordingly, the Writ Petition is partly allowed and the impugned order/proceedings, dated 01.04.2015, issued by the second respondent is set aside and the matter is onceagain remanded to the second respondent, who on strict compliance of the earlier order, dated 19.03.2015, passed by this Court in W.P.No.365 of 2014, is directed to issue show cause notice to the petitioner and other Trustees, call for their objections, if any, and given them an opportunity of personal hearing, and thereafter, pass orders on merits and in accordance with law, within a period of twelve weeks

from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

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To

1. The Joint Commissioner,
Hindu Religious and Charitable Endowment,
Administration,
Coimbatore, Coimbatore District.
2. The Assistant Commissioner,
Hindu Religious and Charitable Endowment,
Administration,
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W.P.No.12867 of 2015

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