

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03-06-2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

WRIT PETITION No.15612 of 2015

and

M.P.Nos.1 and 2 of 2015

S.Dharmalinga Mudaliar
Hereditary Trustee
Thondaimandala Adhi Saiva Vellala
Community's
Sri Prasanna Vinayaka Temple
Old No.1/17, New No.8/97,
Pillaiyar Koil Street
Paraniputhur Village
Sriperumbuthur Taluk
Chennai 600 122.

... Petitioner

vs

1. The Commissioner
Hindu Religious and Charitable
Endowment Board
Nungambakkam, Chennai 34
2. The Joint Commissioner
Hindu Religious and Charitable
Endowment Board
Vellore
3. The Assistant Commissioner
Hindu Religious and Charitable
Endowment Board
Kancheepuram
4. The Inspector (Fit Person)
Hindu Religious and Charitable
Endowment Board
Sriperumbuthur
5. The Manager
Bank of Baroda
Mangadu Branch, Chennai

... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records pertaining to the impugned order of the third respondent in Na.Ka.No.678/2015/B3 dated 18.3.2015, and quashing the same as illegal, void and ultra virus and directing the first respondent to dispose of R.P.No.3/2014, pending before the first respondent, in accordance with law.

For Petitioner : Mr.D.Rajagopal

For Respondents : Mr.M.L.Mahendran
Government Advocate (HR & CE)
for RR1 to 4
R5 - Bank

ORDER

By consent, the writ petition itself is taken up for final disposal.

2.The petitioner claims that he is the Hereditary Trustee of Arulmigu Thondai Mandala Adhi Saiva Vellala Community Temple viz. "Sri Prasanna Vinayakar Temple", situated at Paraniputhur Village, Sriperumbuthur Taluk, Kancheepuram District, and it belongs to the said community and it is also a religious denomination temple within the meaning of the provisions of Article 26 of the Constitution of India. The petitioner would further state that the said temple was built upon the land purchased on 21.2.1919, out of the funds provided by the said community people, and subsequently, on 7.7.1923 and 30.12.1942, certain lands were gifted by the members of the said community for the welfare of the temple and Kumbabishegams were also conducted.

3.The grievance expressed by the petitioner, is that a fit person was appointed to take over the administration of the temple alleging mismanagement, and challenging the legality of the same, a revision in R.P.No.3/2014 is pending on the file of the first respondent, and even though the said revision is pending, the petitioner continues to operate the bank account; but, all of a sudden, the impugned order was passed by the third respondent stating that since the fit person has been appointed, he would operate the bank account and the petitioner was directed to extend his cooperation to him and the petitioner, aggrieved by the said order, has filed this writ petition.

4.Mr.D.Rajagopal, learned Counsel appearing for the petitioner, would contend that challenging the correctness of the appointment of the fit person, admittedly, revision is pending on the file of the first respondent and de hors the pendency of the revision petition, the petitioner was permitted to operate the bank account

and he was also operating so without any complaint whatsoever and all of a sudden, without putting him on notice, the fit person was permitted to operate the bank account and a copy of the impugned order was not even marked to him and hence, prays for interference.

5.Per contra, Mr.M.L.Mahendran, learned Government Advocate, who accepted notice for the respondents 1 to 4, would vehemently contend that on account of mismanagement, the fit person was appointed and the same was put to challenge by filing revision before the first respondent and the order appointing the fit person, has not been stayed and therefore, it is open to the third respondent to permit the fit person to operate the bank account and prays for dismissal of the writ petition.

6.This Court carefully considered the rival submissions and also perused the materials placed before it.

7.The fact remains, though the fit person was appointed and the same was put to challenge by filing revision petition before the first respondent, the petitioner continues to operate the bank account. A perusal of the impugned order would also disclose that no opportunity has been given to the petitioner and the copy of the said order was also not marked to him and hence, on the sole ground, the impugned order warrants interference.

8.In the result, the writ petition is partly allowed and the impugned order dated 18.3.2015, passed by the third respondent, is set aside and the matter is once again remanded to the third respondent, who shall issue notice to the petitioner within a period of two weeks from the date of receipt of a copy of this order, and give him an opportunity of personal hearing and pass orders in accordance with law, within a period of two weeks thereafter. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

nsv

To:

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Hindu Religious and Charitable
Endowment Board
Nungambakkam, Chennai 34

2. The Joint Commissioner
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Vellore

3. The Assistant Commissioner
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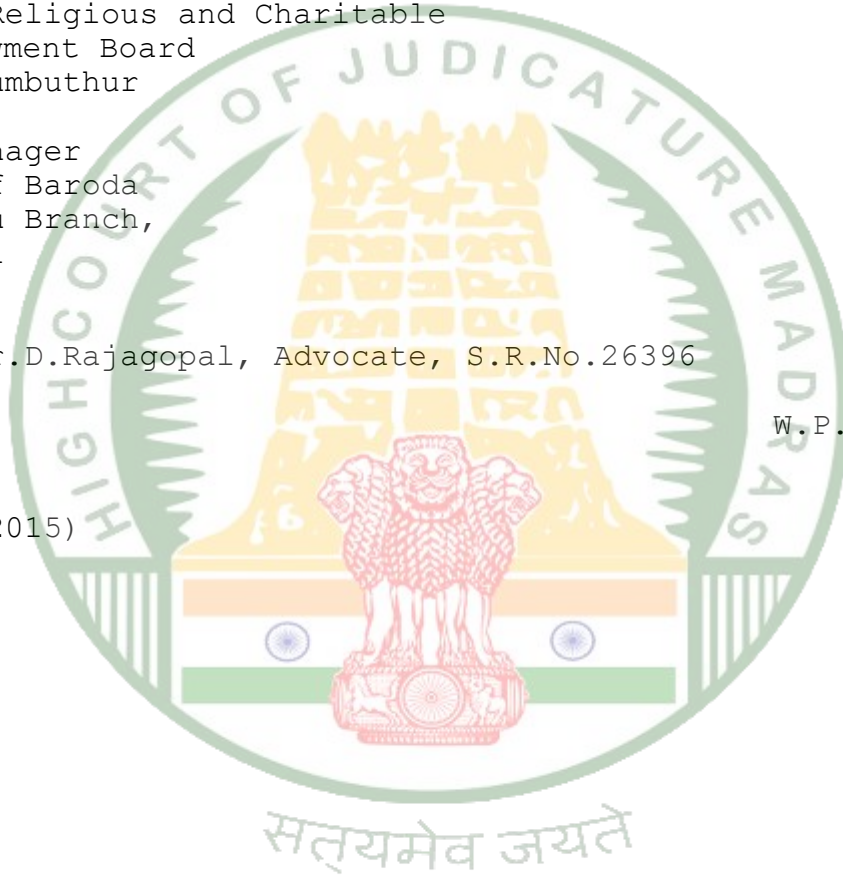
4. The Inspector (Fit Person)
Hindu Religious and Charitable
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Sriperumbuthur

5. The Manager
Bank of Baroda
Mangadu Branch,
Chennai

+1cc to Mr.D.Rajagopal, Advocate, S.R.No.26396

W.P.No.15612 of 2015

RV(CO)
CA(08/06/2015)



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