

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07-07-2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

WRIT PETITION No.19922 of 2015

and

M.P.Nos.1 to 3 of 2015

1.V.Balu
2.S.Murugesan
3.C.Ravi
4.G.Ekambaram
5.K.Manoharan .. Petitioner

vs

1.Joint Commissioner
Hindu Religious and Charitable
Endowment Department
Vellore
2.Arulmighu Mutheeswarar Koil
rep. By Fit Person
N.Thiagarajan
having office at
Arulmighu Veedagireeswarar Temple
Thirukazhukundram Taluk
Kancheepuram District .. 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 of the first respondent made in Se.Mu.Na.No.2259/2015/Aa.2 dated 25.3.2015, and quashing the same and directing the respondents to hand over the management of the second respondent temple to the petitioners.

For Petitioners : Mr.A.S.Narasimhan

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

ORDER

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

2. According to the first petitioner, who sworn to the affidavit filed in support of this writ petition, Arulmighu Mutheeswarar Temple, Kancheepuram, is an ancient temple belonging to washerman community and was governed by a Scheme framed under the Hingu Religious and Charitable Endowment Act (HR & CE), by the erstwhile Board of Commissioners for Hindu Religious Endowment in O.A.No.530 of 1929 dated 19.11.1929, which came into effect from 1.12.1929. The first petitioner would further state that as per the said Scheme, five persons have to be appointed as Trustees and the vacancies as and when arise, shall be filled up within one month by the people belonging to the said community, and in the event of non-compliance, the Board of Commissioners for HR & CE is vested with power to take appropriate action in the form of filling up vacancies caused, from and among the members of the said community.

3. It is also the specific case of the petitioners that the administration of the temple is managed by the people belonging to the said community, only. The first petitioner would further state that without any rhyme or reason, the first respondent and his subordinates have started interfering with the administration of the temple by appointing trustees in their own and in this regard, a suit in O.S.No.47/2002, on the file of the Court of District Munsif, Kancheepuram, was filed praying for a declaration and consequential reliefs and the said suit was decreed after contest, on 15.4.2005, and it has also become final and since the first respondent is also a party to the said suit, he is bound by the said judgment and decree.

4. It is also stated by the first petitioner that the Commissioner of HR & CE Board also sent a proposal on 4.3.2014, for appointment of the petitioners as non-hereditary trustees for the second respondent temple by selecting three persons from the people belonging to the said community, and it was considered by the State Government and an order dated 12.11.2014, was passed approving the names of the petitioners as non-hereditary trustees, and among the members, an election was conducted and the first petitioner herein was elected as the President.

5. The first petitioner would further state that one V.Kannivel, who does not belong to washerman community, filed W.P.No.620/2015, praying for issuance of a writ of certiorarified mandamus calling for the records and quashing the impugned proceedings of the first respondent dated 4.3.2014 and 18.11.2014, as well as the proceedings of the third respondent dated 30.12.2014, with a consequential direction directing the second respondent therein/first respondent herein to approve the names sponsored by the said Samuthayam in its meeting held on 1.12.2011, and notice was ordered in the said writ petition and ultimately, it was dismissed as withdrawn on 24.4.2015, and in the interregnum, the second respondent has passed the impugned order dated 25.3.2015, appointing a Fit Person on account of the pendency of the above said writ petition.

6.The learned Counsel appearing for the petitioners, has drawn the attention of this Court to the impugned order and would submit that the Fit Person came to be appointed on account of pendency of the above said writ petition and since it was dismissed as withdrawn on 24.4.2015, the impugned order cannot stand scrutiny and prays for setting aside the order with a consequential direction to hand over the charge to petitioners.

7.The Court heard the submissions of Mr.M.L.Mahendran, learned Government Advocate, who accepted notice on behalf of the first respondent, also, and he would submit that it is always open to the petitioners to approach the first respondent for passing necessary orders.

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

9.A perusal of the impugned order would disclose that the Fit Person came to be appointed on account of the pendency of the writ petition in W.P.No.620/2015 and also in the interest of the temple. The fact remains that the impugned order came to be passed primarily on account of pendency of W.P.No.620/2015 and admittedly, it was dismissed as withdrawn on 24.4.2015. As regards the other reasons cited in the impugned order, as to the interest of the temple, nothing has been indicated therein as to the decision taken by the first respondent in that regard.

10.In the result, the writ petition is allowed and the impugned order dated 25.3.2015, passed by the first respondent, is set aside and the first respondent is directed to take a decision in accordance with law, for once again handing over the charge to the petitioners, within a period of two weeks from the date of receipt of a copy of this order and inform the decision taken, to the petitioners. No costs. Consequently, connected miscellaneous petitions are closed.

सत्यमेव जयते

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

nsv

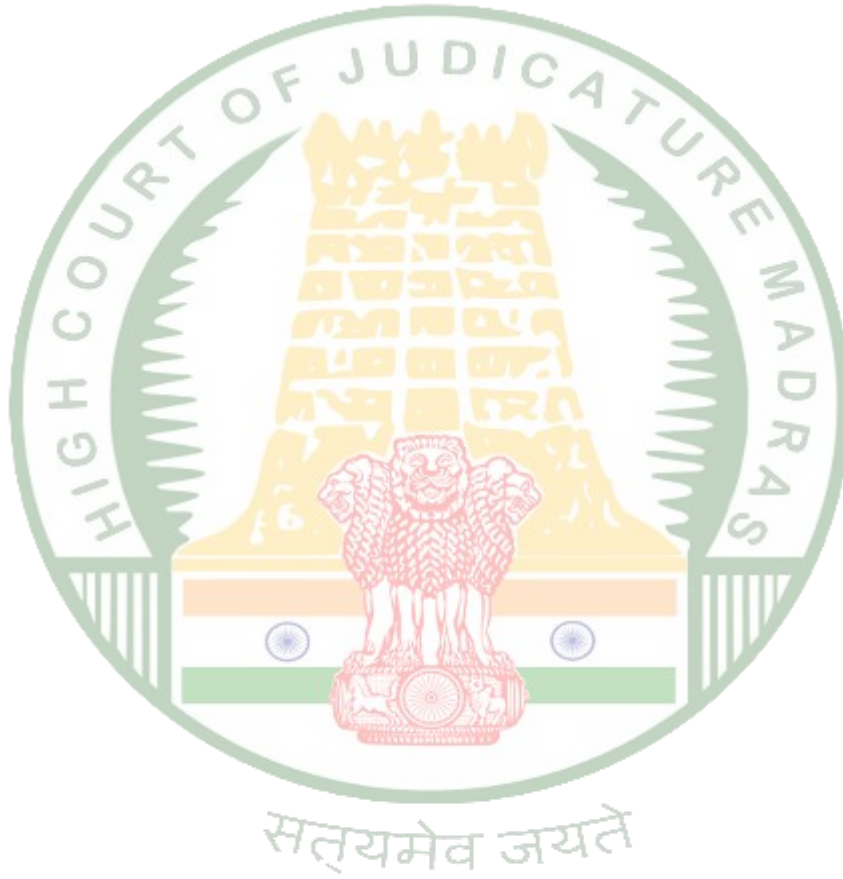
To:

1.Joint Commissioner
Hindu Religious and Charitable
Endowment Department
Vellore

+1cc to Mr.A.J. Narasimrav Advocate sR 33793
+1cc to Government pleader SR 34324

W.P.No.19922 of 2015

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