

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.10.2015

CORAM

THE HON'BLE Mr. JUSTICE M.M.SUNDRESH

W.P.Nos.15162 & 27533 of 2014
M.P.Nos.1, 1 & 2 of 2014

W.P. No.15162 of 2014

Mr.K.Neelamega Bhattachariyar,
Stanikar/Archakar,
Arulmighu Devanathaswamy Temple,
Thiruvandipuram, 1/78, Riverside Street,
Thiruvandipuram, Cuddalore-607 401. ...Petitioner

Vs.

1. The Commissioner,
Hindu Religious and Charitable
Endowment Department,
Chennai-34.
2. The Assistant Commissioner/Fit person,
Hindu Religious and Charitable Endowment Department,
Arulmighu Devanathaswamy Temple,
Thiruvaheendrapuram,
Cuddalore District. ...Respondents

W.P.No.27533 of 2014

- 1.N.Narashima Battachariar
- 2.N.Venkatakkrishnan ...Petitioners

Vs.

1. The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Thiruvanthipuram Arulmighu Devanathaswamy
Temple, Thiruvanthipuram, Cuddalore.

2. The Executive Officer,
Thiruvanthipuram Arulmighu Devanathaswamy
Temple, Thiruvanthipuram,
Cuddalore Taluk.

...Respondents

Prayer: Petition in W.P.No.15162 of 2014 is filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus to call for the entire records pertaining to issuance of the order dated 28.05.2014 passed by the 2nd respondent herein, quash the same and forbear the respondents herein not to interfere with functioning of the petitioner as Stanika-Archaka in Sri Devanatha Swamy Temple, Thiruvendipuram, Cuddalore District.

Prayer: Petition in W.P.No.27533 of 2014 is filed under Article 226 of The Constitution of India praying to issue a writ of mandamus forbearing the respondents from interfering with the rights and duties of the petitioners herein, as hereditary Sthanikas cum Archaka of Arulmighu Devanathaswamy Temple, Thiruvanthipuram, Cuddalore Taluk.

For Petitioners : Mr.T..R.Rajagopal, S.C., for
in both W.Ps. Mr.D.Ravichander

For Respondents : Mr.S.Gomathinayagam,
in both W.Ps. Addl. Advocate General, Asst. by
Mr.P.Sanjay Gandhi,
Addl. Government pleader for R1

Mr.M.Sundar for
Mr.K.Ashok Kumar for R2

COMMON ORDER

As the issues involved in both the writ petitions are interlinked, they have been taken up together and disposed of by way of a common order.

2. W.P.No.15162 of 2014 has been filed challenging the order dated 28.05.2014 passed by the fit person, who has been arrayed as the second respondent.

3. W.P.No.27533 of 2014 has been filed seeking a direction to forbear the respondents from interfering with the

rights and duties of the petitioners herein, as hereditary Sthanikas cum Archaka of Arulmighu Devanathaswamy Temple, Thiruvanthipuram, Cuddalore Taluk.

3. This case got a chequered history before the Court of Law starting from the year 1896 onwards as seen from the judgment in O.S.No.868 of 1896 on the file of District Munsif Court, Cuddalore.

4. The petitioner in W.P.No.15162 of 2014, claiming himself as Sthanika cum Archaka of Arulmighu Devanathaswamy Temple, Thiruvanthipuram, challenged the order of termination passed against him by the second respondent on 28.05.2014 and the consequential relief to forbear the respondents from interfering with the functioning of the petitioner as Sthanika-Archaka. Thus, the claim of the petitioner has to be considered by conducting a detailed enquiry by the authorities under the Hindu Religious Charitable and Endowment Act, 22 of 1959 (hereinafter referred to as "the Act"). There is an alternative remedy available under Section 63 (e) of the Act for that purpose. The questions, such as, the status of the petitioner, as the adopted son of his predecessor Krishnamoorthy Patachariyar and the existence as well as the rights of a Stanika would border on the questions of fact. There are numerous proceedings initiated at the instance of the parties including the petitioners and his predecessor. Therefore, without going into the issues sought to be raised by invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India, this Court is inclined to dispose of the writ petitions by giving liberty to the petitioners to exhaust the remedy under Section 63(e) of the Act, without going into the issues sought to be raised herein. The relief sought for in the other writ petition would also be consequential and also can be raised before the authority constituted under the Act.

5. Accordingly, the writ petitions stand disposed of giving liberty to the petitioners to exhaust the remedy under Section 63 (e) of the Act within a period of four weeks from the date of receipt of a copy of this order.

6. Taking note of the submissions made, the interim order granted in respect of W.P.No. 15162 of 2014 alone would continue till appropriate final orders are passed by the appropriate authority under Section 63(e) of the Act. However, it is made clear that the said order would not create any

equity either in favour of the petitioners or in favour of the second respondent. It is made clear that all the issues are left open including the scope and applicability of the Section 105 of the Act.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

raa

To

1. The Commissioner, Hindu Religious and Charitable Endowment Department, Chennai-34.
2. The Assistant Commissioner/Fit person, Hindu Religious and Charitable Endowment Department, Arulmighu Devanathaswamy Temple, Thiruvaheendrapuram, Cuddalore District.
3. The Executive Officer, Thiruvanthipuram Arulmighu Devanathaswamy Temple, Thiruvanthipuram, Cuddalore Taluk.

2 CCs to Mr.D.Ravichander, Advocate SR.No. 56510 & 56511

2 CCs to Mr.K.Ashok Kumar, Advocate SR.No. 56585

2 CCs to the Government Pleader, SR.No. 57118 & 57119

W.P.Nos.15162 & 27533 of 2014

VG (CO)
PSI (29.10.2015)