

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.09.2015

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THE HONOURABLE MR. JUSTICE M.M.SUNDRESH

W.P.No.27416 of 2015

and

MP.Nos.1,2 of 2015

Arulmigu Kamatchiamman Temple,
Rep by its Hereditary Trustee,
P.Sakthivel,
S/o.Late P.C.Palaniappan,
Pudhupalayam, Gobichettipalayam,
Erode District.

...Petitioner

Vs

- 1 The State of Tamil Nadu,
Rep by Secretary to Government,
Hindu Religious and Charitable Endowment,
Fort St. George, Chennai-9.
- 2 The Commissioner,
Hindu Religious and Charitable Endowment,
No.119, Uttamar Gandhi Road,
Nungambakkam, Chennai-34.
- 3 The Assistant Commissioner [Additional in Charge],
Hindu Religious and Charitable Endowment,
Coimbatore.
- 4 The Fit Person,
Arulmighu Kondathukaliamman Thirukovil,
Pariyur.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records comprised in Na.Ka.No.3927/2014/A3 dated 23.12.2014 on the file of the 3rd respondent in so far as appointing the Executive Officer, Arulmighu Kondathukaliamman Thirukovil, Pariyur as the fit person to the petitioner temple until a Trustee is appointed as per the Section 49[1] of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, quash the same.

For Petitioner : Mr.R.Karthikeyan
For Respondents : Mr.K.V.Dhanapalan, AGP

O R D E R

The petitioner who is said to be the erstwhile Trustee and claiming to be Hereditary Trustee has filed this petition, challenging the appointment of a fit person dated 23.12.2014. .

2. The learned counsel appearing for the petitioner submitted that the petitioner continues to be a Trustee. The order impugned has been passed, without assigning opportunity to the petitioner and no reasons have been assigned. Reliance has been made on the decision of this Court in P.R.Thirupathy and Others Vs The Commissioner, Hindu Religious & Charitable Endowment, Nungambakkam High Court, Chennai-34 and Others 2015[4] CTC 755.

3. The learned Additional Government Pleader for the respondents submitted that the order impugned has been passed on 23.12.2014. It was based on the report dated 27.11.2014 which states that it is required for managing the shops, establishment of permanent hundiya and collection of requisite fees for performing poojas. It is also submitted that respondent No.4 has taken charge with effect from 22.06.2015.

4. The question as to whether, the petitioner is a Hereditary Trustee or not, is a disputed question of fact, which cannot be decided by this Court.

5. Further more, perusal of the documents produced by the learned Additional Government Pleader would show that the respondent No.4 has taken charge from one Karuppannan, who is said to be the person in charge for the management. Therefore, the question of issuing notice to the petitioner and hearing him would not arise.

6. The decision relied upon by the learned counsel for the petitioner has to be applied in the facts and circumstances of the case. Further more, the alternative remedy has not been considered. The petitioner can workout remedy by way of filing application under Section 21 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959.

7. In the case on hand, the report as discussed above indicates the necessity for the appointment of a fit person. As the respondent No.4 is in charge, this Court does not find any reason to exercise its jurisdiction at this stage especially, when there is an alternative remedy available.

8. The Writ Petition is disposed of, with liberty to the petitioner to file an appeal under Section 21 of the said Act, within four weeks from the date of receipt of a copy of this order. As and when the appeal is filed, the authority concerned shall take action without rejecting it assigning the delay. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

1. Secretary to Government, State of Tamil Nadu,
Hindu Religious and Charitable Endowment,
Fort St. George, Chennai-9.
- 2 The Commissioner,
Hindu Religious and Charitable Endowment,
No.119, Uttamar Gandhi Road,
Nungambakkam, Chennai-34.
- 3 The Assistant Commissioner [Additional in Charge],
Hindu Religious and Charitable Endowment,
Coimbatore.
- 4 The Fit Person,
Arulmighu Kondathukaliamman Thirukovil,
Pariyur.

1 CC to Mr.R.Karthikeyan, Advocate SR.No. 49905

1 CC to the Government Pleader, SR.No. 49820

W.P.No.27416 of 2015

VSN (CO)

PSI (30.09.2015)