

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2015

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.30796 of 2013 &
M.P.Nos.1 to 3 of 2013

Arulmighu Sree Jagannatheswarar
Sri Lakshminarayana Perumal,
Temples Baktha Jana Sabha Trust,
Regd. No.82/2008,
Rep. by its Managing Trustee
Mr.R.Rajagopalan,
No.11-A, West Agraharam Valavanoor,
Villupuram District.Petitioner

Vs.

1. The Commissioner,
HR & CE., Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai-600 034.
2. The Joint Commissioner,
HR & CE., Department,
Villupuram.
3. The Executive Officer,
Stage IV, Arumighu Peraruyerahitta,
Padaleeswarar Temple,
Kumarakuppam,
Villupuram.
4. Mr.Govindan @ Aravamudhan Battachariar,
Valavanoor,
Villupura Taluk & District. ... Respondents

Prayer: Petition filed under section 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the impugned order passed by the second respondent in his proceedings dated 22.08.2013 made in செ.மு.பலவகை மனு எண்.1/2013 இ2 and quash the same.

For Petitioner : M/s.K.Radhakrishnan

For Respondents : Mr.S.Kandasamy
Special Govt. Pleader for R1&R2
Mr.D.Ravichander for R4
Mr.R.Thiagarajan for R3

O R D E R

Heard K.Radhakrishnan, learned counsel for the petitioner and Mr. S.Kandasamy, learned Special Government Pleader for respondents 1 and 2, Mr.R.Thiagarajan for R3 and Mr.D.Ravichander for R4.

2. The petitioner has filed the writ petition challenging the order passed by the second respondent recognising the fourth respondent as a hereditary trustee to Arulmighu Sree Lakshmi Narayana Perumal Thirukoil Valavanoor, Villupuram District.

3. Though several grounds have been raised challenging the impugned proceedings by contending that the fourth respondent has committed irregularities and illegalities and he ought not to have been considered for being appointed as hereditary trustee of the temple, those issues need not be gone into in this writ petition as the petitioner has an efficacious alternative remedy under the provisions of the Hindu Religious and Charitable Endowments Act.

4.The petitioner is the Trust formed by the worshippers of the temple who are the natives of the said village. In fact, there is a reference to the same in the complaint given by the villagers against the fourth respondent. In the counter affidavit filed by the Executive Officer of the Temple in W.P.No.2420 of 2013, it has been stated that the villagers of Valavanoor have given a written complaint on 01.12.2012 complaining about the various irregularities and illegalities and also mismanagement of the fourth respondent. In such circumstances, the petitioner has every locus standi to challenge the impugned proceedings, that apart, in terms of provisions of HR & CE Act, the worshippers have locus standi to put forth their grievances.

5.In the light of the above, this Court is of the view that the petitioner should exhaust the remedy available under the Act by challenging the order passed by the second respondent dated 22.08.2013 which is the order impugned in this writ petition.

6.In the light of the above, liberty is granted to the petitioner to file a revision petition under Section 21 of the HR & CE Act. Since the petitioner is not a party to the proceedings which culminated in the order dated 22.08.2013, the first respondent shall not insist upon the petitioner for production of the certified copy of the order dated 22.08.2013 and the revision shall be entertained based on the photostat copy of the order, which the petitioner has produced before this Court.

7.When this Court granted the above liberty to enable the petitioner to file the revision petition before the first respondent, learned counsel appearing for the fourth respondent raised an objection stating that the plea of the limitation to be left open to be raised by the fourth respondent before the first respondent Commissioner.

8.It is to be noted that the order of the second respondent was passed without notice to the petitioner or any other villagers. When the Executive Officer of the temple filed a counter affidavit in the writ petition in W.P.No.2420 of 2013, which was filed by the fourth respondent herein, challenging the order appointing a fit person, the Department took a specific stand that there was irregularity, illegality and mismanagement by the fourth respondent and that was brought to the notice of the department by the villagers of Valavanoor by a written complaint dated 01.12.2012, but the same were not taken into account, when an order was passed by the second respondent dated 22.08.2013.

9.Be that as it may, the petitioner Trust has been formed by the Villagers in terms of the provisions of the HR & CE Act. However, the worshippers have locus standi. More so, the submission of the learned counsel for the petitioner is that when there was a written complaint given by the villagers against the fourth respondent, it was ignored by the department. Therefore, this Court is of the view that the petitioner should be granted liberty to file the revision petition before the first respondent within a period of 15 days from the date of receipt of a copy of this order and the first respondent shall entertain the revision without reference to the limitation, since the petitioner is not a party before the second respondent and therefore, the contention raised by the fourth respondent in this regard is rejected.

10.After the petitioner files the revision petition within 15 days from the date of receipt of a copy of this order, the first respondent shall issue notice to the petitioner, the fourth respondent as well as the others who are likely to be aggrieved and

hear and pass appropriate orders in accordance with law within a period of eight weeks thereafter.

11. With the above directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner,
HR & CE., Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai-600 034.
2. The Joint Commissioner,
HR & CE., Department,
Villupuram.
3. The Executive Officer,
Stage IV, Arumighu Peraruyerahitta,
Padaleeswarar Temple,
Kumarakuppam,
Villupuram.

+1cc to M/s.D.RaviChandar, Advocate, S.R.No.12867
+1cc to M/s.K.Radha Krishnan, Advocate, S.R.No.12793
+1cc to the Government Pleader, S.R.No.12919

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KJI (CO)
CA(17/03/2015)

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