

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.10.2015

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH

W.P.Nos.34366 and 34367 of 2015

Muruganandam

... Petitioner in both WPs

vs.

- 1 The Joint Commissioner
Hindu Religious and Charitable Endowment
Department, Thanjavur.
- 2 The Assistant Commissioner
Hindu Religious and Charitable Endowment
Department, Nagapattinam

... Respondents in both WPs

Prayer in W.P.No.34366/2015: Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing 1st respondent to number the Original Application of the petitioner dated 1.12.2004 filed under Section 63(b) of Tamilnadu Hindu Religious and Charitable Endowment Act and dispose of the same in accordance with the law within a stipulated time.

Prayer in W.P.No.34367/2015: Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus forbearing the 1st respondent from proceeding further with his enquiry in pursuance of his notice in R.C. No.982/2015/C2 dated 2.4.2015 without considering the Original Application of the petitioner dated 1.12.2004 filed under Section 63(b) of Tamilnadu Hindu Religious and Charitable Endowment Act.

For Petitioner	..	Mr.S.Sounthar
For R1 and R2	..	Mr.P.Sanjay Gandhi, Addl. Govt. Pleader

COMMON ORDER

Petitioner claims to be the legal heir of the founder trustee. W.P.No. 34366 of 2015 has been filed for seeking a

direction to respondent No.1 to number the original application dated 01.12.2014. W.P.No.34367 of 2015 has been filed forbearing the said respondent from proceeding further with the notice dated 02.04.2015 without considering the original application of the petitioner dated 01.12.2014.

2. The learned counsel for the petitioner submitted that the order dated 01.07.2003 has been passed by respondent No.1 without affording an opportunity to the legal heirs of the original trustee. Thus, it is a nullity. Therefore, the petition filed by petitioner is maintainable and in view of the same, the subsequent action sought to be taken will have to be stayed.

3. The learned Additional Government Pleader submitted that having passed an order, the respondent No.1 has become functus officio. The only remedy open to the petitioner is to approach the Commissioner, Hindu Religious and Charitable Endowments Department. This Court is not willing to go into the disputed question of facts. What the petitioner seeks to challenge is the order dated 01.07.2003 passed by respondent No.1. The petitioner appears to be not in possession of the said order. Therefore, it is not known as to whether the said order has been passed in accordance with law or not.

4. Thus, a direction is issued to Respondent No.1 to issue a copy of the order dated 01.07.2003 to the petitioner within a period of four weeks from the date of receipt of a copy of this order. After receipt of the same, the petitioner is at liberty to file an appeal to the Commissioner, Hindu Religious and Charitable Endowments Department within a further period of four weeks. Till such time, the proceeding dated 02.04.2015 initiated by respondent No.1 is directed to be kept in abeyance. The petitioner is at liberty to seek appropriate interim order before the Commissioner in the appeal to be filed.

5. Writ petitions are disposed of accordingly. No costs.

sd/
ASSISTANT REGISTRAR (CS-V)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

kua

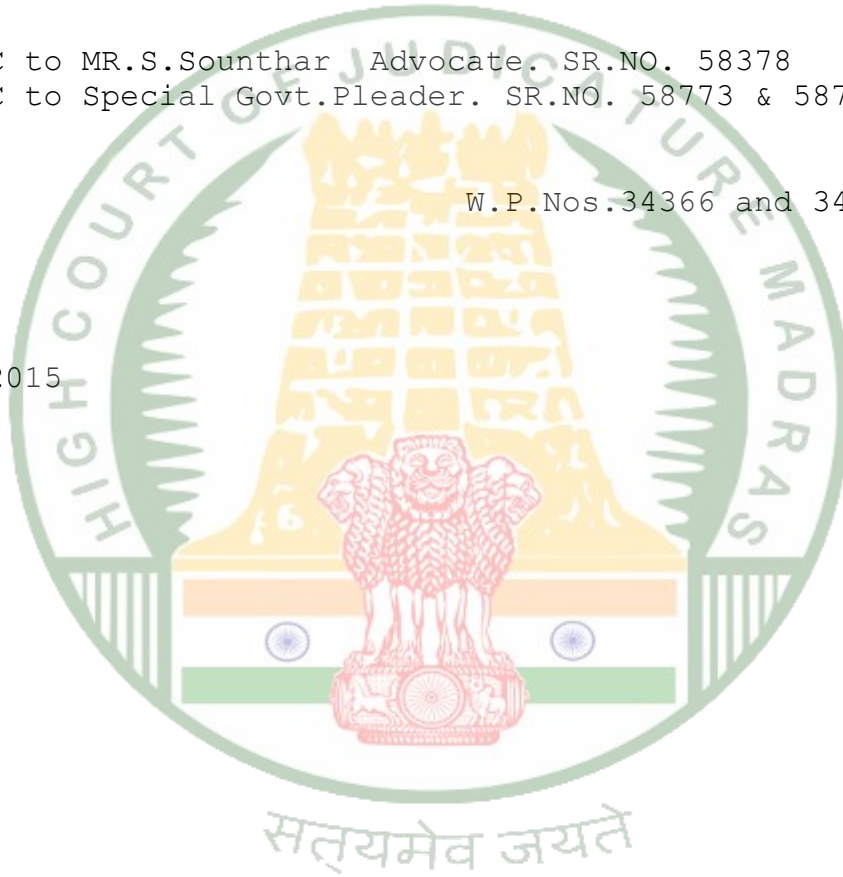
To

- 1 The Joint Commissioner
Hindu Religious and Charitable Endowment
Department, Thanjavur.
- 2 The Assistant Commissioner
Hindu Religious and Charitable Endowment
Department, Nagapattinam

+1 CC to MR.S.Sounthar Advocate. SR.NO. 58378
+2 CC to Special Govt.Pleader. SR.NO. 58773 & 58774

W.P.Nos.34366 and 34367 of 2015

CO-MP
JD 06/11/2015



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