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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.11.2015

CORAM:

**THE HONOURABLE Mr.V.RAMASUBRAMANIAN**  
**and**

**THE HONOURABLE Mr. JUSTICE N.KIRUBAKARAN**

W.A.(MD)No.71 of 2015  
and M.P.(MD)No.1 of 2015

Saravana Pandian

... Appellant

Vs.

1.The Commissioner,  
Hindu Religious and Charitable Endowment Department,  
Chennai 600 034.

2.The Joint Commissioner,  
Hindu Religious and Charitable Endowment Department,  
Madurai 625 001.

3.A.Sivaji Poosari

... Respondents

**PRAYER:** The Writ Appeal is filed under Clause 15 of Letters Patent Act, to set aside the order dated 07.01.2015 in W.P.(MD)No.18671 of 2014 passed by a Learned Single Judge of this Court.

Prayer in WP(MD). 18671/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, calling for the records pertaining to the impugned order passed by the 2nd respondent in Na.Ka.No. 8125/2013/B1 dated 29.10.2014 quash the same and pass such further or other orders.

For Appellant : Mrs.J.Anandhavalli

For Respondents : Mr.V.R.Shanmuganathan, Spl.G.P.for R1 and 2

#### **JUDGMENT**

(Judgment of this Court was delivered by **V.RAMASUBRAMANIAN, J.**)

The Writ Appeal arises out of an order passed by the Learned Judge allowing the Writ petition of the appellant, but, remitting the matter back to the official respondents.

2.Heard Mrs.J.Anandhavalli, learned counsel for the appellant and Mr.V.R.Shanmuganathan, learned Special Government Pleader appearing for the respondents 1 and 2.



3.The appellant's father was the hereditary trustee of a Temple by name Arulmigu Pandi Muneeswarar Temple at Melamadai, Madurai. His appointment was challenged before the departmental authorities and eventually a Writ petition came to be filed in W.P.(MD)No.4366 of 2009, challenging the appointment of the father of the appellant.

4.Without noting the pendency of the said Writ petition and an order of stay of appointment of the appellant's father, the official respondents passed an order on 18.07.2014 appointing the appellant as the hereditary trustee, in view of the death of the appellant's father on 21.08.2013. But after the pendency of the Writ petition against the appointment of the father of the appellant was brought to the notice to the official respondents, the official respondents withdrew the appointment of the appellant by a further order dated 29.10.2014.

5.Therefore, the appellant filed a Writ petition in W.P.(MD) No.18671 of 2014 challenging the withdrawal of his appointment as hereditary trustee.

6.Though the learned Judge allowed the Writ petition by order dated 07.01.2015, the Learned Judge remanded the matter back to the Joint Commissioner. As against that portion of the order remanding the matter back to the Joint Commissioner, the Writ petitioner has come up with the above appeal.

7.Once it is found that the appellant's father had already died, the Writ petition challenging his appointment was liable to be closed as infructuous. But it was withdrawn by the third respondent herein. Therefore, by a positive act on his part, the third respondent conceded to the appointment of the appellant's father. In such circumstances, the remand of the matter back to the Joint Commissioner is unnecessary.

8.Therefore, the Writ Appeal is allowed, setting aside that portion of the order of the Learned Judge relating to the remand of the matter back to the Joint Commissioner. The other portion of the order of the learned Judge is confirmed.

No costs. Consequently, connected M.P.is closed.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar  
Madurai Bench of Madras High Court,  
Madurai.

TO.

1.The Commissioner,  
<https://hcservices.ecourts.gov.in/hcservices/>  
Madurai Religious and Charitable Endowment Department,  
Chennai 600 034.



2.The Joint Commissioner,  
Hindu Religious and Charitable Endowment Department,  
Madurai 625 001.

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+1cc to M/S. J.Anandhavalli, Advocate in SR.No. 67848

TS/02.12.2015/3P-4C/DP-JGB/SAR - I

W.A. (MD) No.71 of 2015

26.11.2015