

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.14654 of 2016
& WMP No.12822 of 2016

- 1 K.C.Raghu
Hereditary Trustee of
Kadaiyeeswarar Temple
No.18-A, Kattupalayam
Kadaiyur Post
Kangeyam Taluk
Tiruppur District ... Petitioner
- vs.
- 1 The Commissioner
Hindu Religious & Charitable Endowment
(Admn) Department
Chennai-34
- 2 Joint Commissioner
Hindu Religious & Chairtable Endowment
Department
Coimbatore
- 3 The Executive Officer
A/m. Kandaieswarar Temple
Kadaiyur Post
Kangeyam Taluk
Tiruppur District ... Respondents

PRAYER : Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus directing the 1st respondent to forbear the 3rd respondent from taking part in the administration of A/m Kadaiyeeswararar Temple, Kadiyur, kangayam Taluk, Tiruppur District after the expiry of six months period prescribed (ie. 20.08.2015) as per the order in Proc. Na.Ka. No.22681/ 2014/A2 dated 10.02.2015 passed by the 1st respondent by considering the petitioner's representations dated 06.10.2015 and 24.12.2015.

For Petitioner : Mr.N.Manokaran
For Respondents : Mr.K.V.Dhanapalan

O R D E R

The prayer in the writ petition is to issue a Writ of Mandamus, directing the 1st respondent to forbear the 3rd respondent from taking part in the administration of Arulmighu Kadaiyeeswararar Temple, Kadiyur, kangayam Taluk, Tiruppur District after the expiry of six months period prescribed, i.e. on 20.08.2015, as per the order in Proc. Na.Ka.No.22681/2014/A2 dated 10.02.2015 passed by the 1st respondent by considering the petitioner's representations dated 06.10.2015 and 24.12.2015.

(2.1) The case of the petitioner is that his father late K.R.Chinnasamy Gounder was appointed as a Hereditary Trustee, as per order passed in O.A.No.227 of 1976 dated 2.7.1977 by the second respondent, under section 63(b) of the Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959. During the life time of his father, due to his advance age, the petitioner was appointed as a fit person on 6.1.1998 to look after the management of the temple. He continued as such, till the date of death of his father on 19.1.2003.

(2.2) Subsequently, the petitioner applied for the post of Hereditary Trustee in Miscellaneous Petition No.9 of 2003 in O.A.No.227 of 1976 before the second respondent, who invited objections from the public. The petitioner was appointed as the Hereditary Trustee in the said petition.

(2.3) One Mr.K.M.CHinnusamy along with a group of persons, formed a Syndicate to take over the administration of the temple so as to bring the entire landed properties under their control. Further, the said Chinnusamy has illegally occupied the temple lands, constructed a Rice Mill and Marriage Hall in his name as K.M.C.Kalyana Mandapam, which was stoutly opposed by the petitioner. Therefore, the petitioner has taken action to recover the said property and also prevented the Electricity Board from giving Electricity connection to the property.

(2.4) In order to take personal vendetta, the said Chinnusamy being the President and Secretary of a self-proclaimed Kongu Vellala Gounder Porulthantha Kulam, Mulukkadha Kulathavargal Arakkattalai, indulged in all kinds of misdeeds to achieve their ill-motives. They have also set up one Mr.P.Duraisamy to file two suits, viz., O.S.No.82 of 2005 and O.S.No.43 of 2007 before the Sub Court, Dharapuram, impleading the petitioner as first defendant in his capacity as hereditary trustee.

(2.5) The petitioner filed a writ petition in W.P.No.16141 of 2013 against Mr.K.M.Chinnasamy. The Division Bench disposed of the said writ petition by directing the HR&CE Department to take appropriate action to recover the temple lands from the possession of Mr.K.M.Chinnasamy, in the manner known to law.

(2.6) The second respondent issued a Notice dated 19.5.2014, asking the petitioner to appear for an enquiry on 26.5.2014. The petitioner appeared for the enquiry. The petitioner also submitted a representation dated 24.7.2014, narrating the entire events. But, to his shock and dismay, the first respondent placed the petitioner under suspension and issued a charge memo dated 10.8.2014. Pending enquiry, the first respondent passed an order dated 2.2.2015, appointing the third respondent as Executive Officer of the temple.

(2.7) The first respondent passed an order dated 10.2.2015, treating the period of suspension of the petitioner as punishment and directed him to cooperate with the Executive Officer for the better administration of the temple for a period of six months. The second respondent took additional charge of the temple in question and started working with the petitioner to rectify the anomalies for the welfare and better administration of the temple. The period prescribed by the first respondent ended as early as on 20.8.2015.

(2.8) The petitioner made a representation dated 20.8.2015 to the second respondent, seeking a direction to take over the administration of the temple in question as hereditary trustee. Since there is no response, he submitted another representation dated 6.10.2015 to the first respondent, followed by reminder dated 24.12.2015. Even thereafter, no action has been taken. Hence the writ petition.

3. Though the present writ petition has been filed for a positive direction, this Court is not inclined to grant such direction. However, I am of the opinion that since the third respondent has already sent a report to the first respondent to relieve him from the post of Executive Officer and hand over the administration of the temple to the hereditary trustee vide report dated 2.9.2015, this Court directs the first respondent to consider the representations of the petitioner dated 6.10.2015 as well as 24.12.2015 in the light of the report of the third respondent dated 2.9.2015 and pass appropriate orders, on merits and in accordance with law, by affording an opportunity of personal hearing to the petitioner as well as to the necessary parties, if any, within a period of four weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion with regard to the claim made by the petitioner and it is for the first

respondent to consider the claim of the petitioner strictly on merits and in accordance with law. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ajr

To

1 The Commissioner
Hindu Religious & Charitable Endowment
(Admn) Department
Chennai-34

2 Joint Commissioner
Hindu Religious & Chairtable Endowment
Department
Coimbatore

3 The Executive Officer
A/m. Kandaieswarar Temple
Kadaiyur Post
Kangeyam Taluk
Tiruppur District

+1cc to M/s. N. Manokaran, Advocate, S.R.No.24870

+1cc to the Government Pleader, S.R.No.26643

NR II (CO)
EU(26/04/2016)

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