

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2016

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THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition Nos.38892 of 2015
and M.P.No.1 to 3 of 2015
and
W.P.No.9609 of 2016

W.P.No.38892 of 2015:

1. Marthar Kula Welfare Association,
rep. by its President
A.G.Gurusamy Naidu
 2. A.Narayanasamy Naidu
- ... Petitioners

Vs.

1. The Commissioner,
Hindu Religious and Charitable
Endowment Administration
Department,
Nungambakkam, Chennai-34.
 2. The Joint Commissioner,
Hindu Religious and Charitable
Endowment Administration
Department,
Coimbatore.
 3. The Designated Fit Person /
Executive Officer,
Arulmigu Avinasilingam Lingaswarar
Temple,
Avinasi, Thiruppur District.
- ... Respondents

W.P.No.9609 of 2016:

Marthar Kula Welfare Association,
rep. by its President
A.G.Gurusamy Naidu

... Petitioner

Vs.

The Joint Commissioner,
Hindu Religious and Charitable
Endowment Administration
Department,
Balasundaram Road,
Coimbatore.

... Respondent

Writ petition No.38892 of 2015 has been filed under Article 226 of the Constitution of India, praying for a Writ of certiorari to call for the records in D.Dis.R.P.No.81/2015 D2 dated 7.10.2015 on the file of the first respondent confirming the proceedings in Rc.No.10923/2014 dated 26.9.2014 of the second respondent appointing the third respondent as fit person to the petitioner temple and quash the same.

Writ petition No.9609 of 2016 has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the respondent to constitute the three member trust board to Arulgimu Angalamman Temple, Palladam, Tiruppur District as per the scheme dated 19.7.1979 made in OA 2/1979 within a time frame to be fixed by this Court.

W.P.No.38892 of 2015:

For Petitioner : Mr.N.S.Nandakumar

For Respondents : Mrs.Rita Chandrasekar,
Special Government Pleader (HR & CE)
for R.1 and R.2

W.P.No.9609 of 2016:

For Petitioner : Mr.N.S.Nandakumar

For Respondent : Mrs.Rita Chandrasekar,
Special Government Pleader (HR & CE)

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COMMON ORDER

The writ petition in W.P.No.38892 of 2015 has been filed challenging the proceedings of the first respondent dated 7.10.2015 confirming the proceedings of the second respondent dated 26.9.2014 appointing the third respondent as fit person to the petitioner temple.

2. The writ petition in W.P.No.9609 of 2016 has been filed for the issuance of writ of mandamus directing the respondent to constitute the three member trust board to Arulmigu Angalamman Temple, Palladam, Tiruppur District as per the scheme dated 19.7.1979 made in OA 2/1979 within a time frame to be fixed by this Court.

3. Since the parties are one and the same and the issues involved in both the writ petitions are interrelated to each other, both the writ petitions are disposed of by way of common order.

4. It is the case of the petitioner that Arulmigu Angalamman Temple, Palladam Taluk, now Tiruppur District is administered by the persons nominated from Marthar Kula Community members. A scheme was settled on 19.7.1979 in O.A.No.2/1979 for administration by the Hindu Religious and Charitable Department and as per the said scheme, five members of the petitioner community are approved for constitution of Trust board of the temple by the respondent / Joint Commissioner. Even before framing the scheme, the petitioner community and its nominees as trustees were managing the religious functions and administration of the temple for the past nine decades. The respondent / Joint Commissioner used to invite nominations / applications from the members of the petitioner community for constituting the five member trust board and approve the same. The last constitution of the trust board was in 2005. Therefore, the petitioner passed resolutions dated 3.4.2008 and 7.7.2013 for constitution of the trust board. But, the respondent / Joint Commissioner has not passed any orders. In these circumstances, the respondent / Joint Commissioner issued an order dated 26.9.2014 appointing a Fit Person as an interim measure. Thereafter, the petitioner once again passed a resolution on 11.11.2014 proposing the very same five names mentioned in the earlier resolution dated 7.7.2013 and forwarded the same to the respondent and a copy of the same was also sent to the Commissioner, who in turn, issued a direction to the respondent on 27.11.2014 to take action as per law and inform the same to the petitioner. Since no action was taken, the petitioner and the de facto trustees of the petitioner filed a revision in R.P.No.81 of 2015 against the interim appointment of a Fit Person. But, the said revision was dismissed by the Commissioner by confirming the appointment of a Fit Person. While confirming the appointment of Fit Person by order dated 7.10.2015, the Commissioner directed the respondent to take necessary action to appoint trustees as per the provisions of scheme. However, the respondent is not taking any steps. Hence, the petitions.

5. Today, when the matter was taken up for consideration, learned counsel appearing for the petitioner submitted that the petitioner has given a representation dated 17.11.2014 and reminder 25.3.2015 to the respondent / the Joint Commissioner requesting him to constitute the three member trust board to Arulgimu Angalamman Temple, Palladam, Tiruppur District as per the scheme dated 19.7.1979 made in OA 2/1979 and it would suffice to the petitioner, if the said representation is considered by him. Further, he has submitted that in the event of the petitioner's representation being considered, the petitioner may be permitted to withdraw their earlier writ petition in W.P.No.39982 of 2015 and he has also made an endorsement to that effect in the W.P.

6. I have heard the learned Special Government Pleader appearing for the respondents also.

7. Considering the facts and circumstances of the case and in view of the said submission made by the learned counsel appearing for the petitioner, this Court directs the petitioner to submit a copy of the representation dated 17.11.2014 to the Joint Commissioner, Hindu Religious and Charitable Endowment Administration Department, Coimbatore, requesting him to constitute the three member trust board to Arulgimu Angalamman Temple, Palladam, Tiruppur District as per the scheme dated 19.7.1979 made in OA 2/1979, within a period of two weeks from the date of receipt of a copy of this order along with a copy of this order and on receipt of the same, the Joint Commissioner, Hindu Religious and Charitable Endowment Administration Department, Coimbatore is directed to consider the said representation 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 thereafter. The writ petition in W.P.No.9609 of 2016 is disposed of accordingly. No costs.

8. In view of the endorsement made by the learned counsel appearing for the petitioner that he is withdrawing W.P.No.38892 of 2015, the writ petition in W.P.No.38892 of 2015 is dismissed as withdrawn. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

sbi

To

1. The Commissioner,
Hindu Religious and Charitable
Endowment Administration
Department,
Nungambakkam, Chennai-34.

2. The Joint Commissioner,
Hindu Religious and Charitable
Endowment Administration
Department,
Coimbatore.

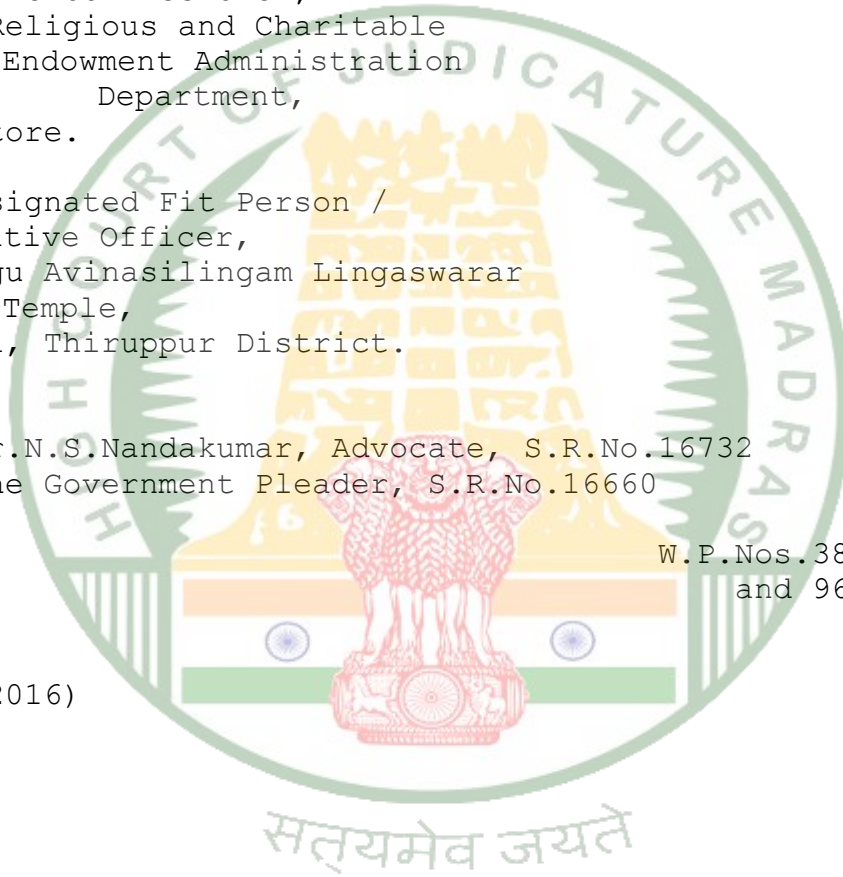
3. The Designated Fit Person /
Executive Officer,
Arulmigu Avinasilingam Lingaswarar
Temple,
Avinasi, Thiruppur District.

+1cc to Mr.N.S.Nandakumar, Advocate, S.R.No.16732

+1cc to the Government Pleader, S.R.No.16660

W.P.Nos.38892 of 2015
and 9609 of 2016

LRS (CO)
CA(17/03/2016)



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