

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2016

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.22030 of 2016

And

W.M.P.No.18825 of 2016

K.P.Bhaskaran, Sole Trustee,  
Arulmigu Periya Mariyamman  
Temple Erode. .... Petitioner

Vs.

- 1 The Commissioner  
Hindu Religious & Charitable Endowments  
119, Uthamar Gandhi Salai,  
Nungambakkam,  
Chennai - 600 034.
- 2 The Assistant Commissioner  
Hindu Religious & Charitable Endowments,  
Erode.
- 3 The Executive Officer / Fit Person,  
Arulmigu Anumaneeswar Thirukovil,  
Anuman Palli,  
Erode. .... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for records of the 2nd respondent by proceedings in Na.Ka.No.1300/2016-03/A3 dated 12.05.2016 and quash the same and consequently direct the 2nd respondent to desist from interfering in any manner with the administration of Arulmigu Periya Mariyamman Temple, Karungalpalayam, Erode.

For Petitioner : Mr.P.Saravana Sowmiyan

For Respondents: Mrs.Rita Chandrasekar  
Special Government Pleader

## O R D E R

By consent, the writ petition is taken up for final disposal.

2.The petitioner claims to be the Hereditary Trustee of Arulmigu Periya Mariyamman Temple, Karungalpalayam, Erode and he came forward to file this writ petition challenging the order of the second respondent dated 12.05.2016 in and by which, the Executive Officer has been appointed as a Fit Person.

3.The learned counsel appearing for the petitioner would submit that the petitioner has also filed application under Section 63 (b) of the Tamil Nadu Hindu Religious and Charitable Endowments Act before the jurisdictional Joint Commissioner to declare him as the Hereditary Trustee and pendency of the application, the second respondent has passed the impugned order appointing the Fit Person without assigning any reason. Since the order vitiates the petitioner with civil consequence, prays for interference.

4.It is also the submission of the learned counsel appearing for the petitioner that despite the impugned order, the Fit Person has not taken charge and as on today, the petitioner is continuing as the Hereditary Trustee of the Temple.

5.Per contra, Mrs.Rita Chandrasekar, learned Special Government Pleader who accepts notice on behalf of the respondents would submit that the notice under Section 49 (i) of the Tamil Nadu Hindu Religious and Charitable Endowments Act need not cite any reason and would further submit that the petitioner is also having an effective alternative remedy under Section 21 - A of the Tamil Nadu Hindu Religious and Charitable Endowments Act, before the jurisdictional Joint Commissioner and therefore, prays for dismissal.

6.This Court has considered the rival submissions.

7.In the light of the fact that the petitioner is having an effective alternative remedy, this Court permits the petitioner to seek his remedy by filing an Appeal under Section 21 - A of the Tamil Nadu Hindu Religious and Charitable Endowments Act, along with an application for Stay, before the jurisdictional Joint Commissioner, within a period of two weeks from the date of receipt of a copy of this order. On such filing of Appeal by the petitioner, the Joint Commissioner shall entertain the Appeal, if the papers are otherwise in order. It is open to the said Official, either to take up the Stay application or the main Appeal itself and give final disposal in accordance with law, within a further period of eight weeks thereafter and till

the application for disposal of Stay, the status-quo as on today, namely, the continuance of the petitioner as Hereditary Trustee shall be maintained.

8.The writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is also closed. Registry is directed to return the original impugned order, after due and proper acknowledgement, to the learned counsel appearing for the petitioner.

Sd/-  
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

- 1 The Commissioner  
Hindu Religious & Charitable Endowments  
119, Uthamar Gandhi Salai,  
Nungambakkam,  
Chennai - 600 034.
- 2 The Assistant Commissioner  
Hindu Religious & Charitable Endowments,  
Erode.
- 3 The Executive Officer / Fit Person,  
Arulmigu Anumaneeswar Thirukovil,  
Anuman Palli,  
Erode.
4. The Joint Commissioner (Jurisdiction)  
Hindu Religious and Charitable Endowments  
Department, Coimbatore.

+1cc to Mr.P. Saravana Sowmiyan, Advocate, S.R.No.35725  
+1cc to the Government Pleader, S.R.No.36350

MSM(CO)  
EU(19/07/2016)

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