

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.12.2016

CORAM:
THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.12542 of 2013
and M.P.No.1 of 2013

V.Mani
Hereditary trustee
Arul Mighu Mariamman Thiru Koil
Mettupalayam Village,
Vaniyambadi
Vellore District. Petitioner

Vs

- 1.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Board,
Vellore.
2. The Commissioner,
Hindu Religious and Charitable Endowments Board,
Nungambakkam,
Chennai - 600 034.
3. The Government of Tamil Nadu,
rep. By its Secretary,
Tamil Culture Development
and Hindu Religious and Charitable
Endowments Department,
Fort St. George, Chennai - 600 009
4. The Executive Officer,
Arul Mighu Naganatha Samy Thiru Koil
Ambur.
5. N.K.Venkatachalam * ... Respondents
* R5- Impleaded as per Order dated 14.11.2016 in MP1/2015
in WP 12542 of 2013.

Prayer: Writ petition filed under Article 226 of the
Constitution of India praying to issue a writ of Certiorari
calling for the records in the impugned order dated 10.04.2013
passed in proceedings Na.Ka.No.1059/2013/A1 on the file of the
1st respondent herein and quash the same.

For Petitioner : Mr.S.Sadasharam
For Respondents : Mr.R.P.Prathap Singh,
Government Advocate, HR & CE
for RR1 to 4
Mr.V.Govardhanan for R5

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O R D E R

The petitioner has filed the present Writ Petition before this Court challenging the appointment of fit person under Section 49(1) of the Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959, vide impugned proceedings dated 10.04.2013 passed by the first respondent /Assistant Commissioner, Hindu Religious and Charitable Endowments Board.

2. The petitioner is the Hereditary Trustee of Mariamman Temple, which is at Mettuplayam Village for more than 50 years. The said temple was established by the petitioner's grandfather and the petitioner continued to maintain the administering affairs of the said temple. He renovated and re-constructed the temple in the year 1996 and the Maha Kumbabhishegam function was held on 02.07.2006. In the meanwhile, one N.K.Venkatachalam has given a complaint to the 1st respondent herein against the petitioner with respect to the administration of the above said temple. However, the first respondent without conducting enquiry forwarded a report to the 2nd respondent. The said temple was brought under the control of the 2nd respondent, who has passed an order dated 20.03.2012 under the provisions of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. The petitioner has submitted various representation to the District Collector and also to the 2nd respondent in the aforesaid matter. In the interregnum the 1st respondent has appointed 4th respondent herein as fit person vide impugned order dated 10.04.2013 and pending writ petition, he has taken charge of the said temple.

3. Learned counsel for the respondents submit that the Writ Petition is not maintainable before this Court when there is an efficacious alternative remedy. The learned counsel has relied upon the decision of the Madurai Bench of this Court in the case of T.Ramesh Babu Vs. The Assistant Commissioner, HR & CE reported in 2009 (4) CTC 320.

4. Heard both sides.

5. Learned counsel for the petitioner would submit that even though an alternative remedy is available, this Court has power to entertain the writ petition filed under Article 226 of the Constitution of India. If this Court dismisses the writ petition on the ground of availability of alternative, the petitioner may be granted liberty to file a revision petition with a direction to the authority concerned to take the same on file ignoring the limitation period.

6. Learned counsel for the 5th respondent would submit that he has been impleaded as a party respondent by the subsequent order dated 14.11.2016 in Miscellaneous Petition No.1 of 2015. Therefore, an opportunity may be given to him by the concerned authorities to put forth his grievance.

7. In the light of the above submissions, I am inclined to pass the following orders :-

i) the Writ Petition is dismissed, with liberty to the petitioner to file a revision petition before the competent authority, within a period of three weeks from the date of receipt of a copy of this Order. No costs. Connected Miscellaneous petition is closed.

ii) On receipt of such revision petition filed by the petitioner, the Revisional authority shall consider the same on merits and in accordance with law, ignoring the limitation period and pass orders as expeditiously as possible, after providing an opportunity to the 5th respondent.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

To

- 1.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Board,
Vellore.
2. The Commissioner,
Hindu Religious and Charitable Endowments Board,
Nungambakkam,
Chennai - 600 034.
3. The Secretary,
Government of Tamil Nadu,
Tamil Culture Development
and Hindu Religious and Charitable
Endowments Department,
Fort St. George, Chennai - 600 009
4. The Executive Officer,
Arul Mighu Naganatha Samy Thiru Koil
Ambur.

+1 cc to Mr.Row & Reddy,advocate,sr.72693

+1 cc to Mr.S.Sadasharam,advocate,sr.72189.

ks(co)
krd 1/2

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