

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2016

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.32949 of 2016

A.Sundararaj

... Petitioner

vs.

1. The Commissioner,
Tamil Nadu Hindu Religious and
Charitable Endowment Department,
Nungambakkam High Road,
Chennai 600 034.

2. The Joint Commissioner,
Tamil Nadu Hindu Religious and
Charitable Endowment Department,
RTO Office Road, Sathuvachari,
Vellore District - 632 009.

... Respondents

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 consider the representation of the petitioner dated 31.08.2016.

For Petitioner : Mr.G.Thyagarajan

For Respondents : Mr.M.Maharaja,

Special Government Pleader (HR & CE)

O R D E R

The petitioner has come up with this Writ Petition seeking a direction to the 1st respondent to consider his representation dated 31.08.2016.

2. It is the case of the petitioner that his ancestor and relative, one Mr.Erundai Sivalingappa Chetty had executed a Will dated 15.05.1884 creating a Trust viz. Pudupet Arulmigu Sri Basaveswara Temple Trust for the Pudupet Sivachara Veerasaiva Lingayat Community People, wherein, he had appointed two

brothers namely Mr.Rudrappa and Mr.Amarappa and their descendants as legal heirs/hereditary Trustees who belong to Lingayat community. The hereditary Trustees are as of now continuing as Managing Trustees of the said Trust. Out of the two appointed Trustees, one of the Trustees, namely, Mr.Rudrappa had no legal heirs, whereas, Mr.Amarappa had a son viz. Mr.Parappa Chetty, who governed the Trust as a Managing Trustee till his death on 10.10.1942 leaving behind his legal heir Mr.Amarappa Chetty, S/o.Mr.Parappa Chetty. Thereafter, the Trust was brought under the HR & CE Department, wherein Mr.P.Amarappa, S/o.Mr.Parappa Chetty had filed a Civil Suit for declaration before the Sub Court, Tirupattur vide O.S.No.86 of 1962 as per the Act 63/3 and got the declaration order on 28.07.1967. Accordingly, the Civil Court declared him as a hereditary Trustee as per the conditions of the Will and also declared that his legal heirs would be the prospective hereditary Trustees.

3. It is further stated by the petitioner that after the demise of his father Late Amarappa Chetty, S/o.Mr.Parappa Chetty on 07.07.1979, the petitioner's elder brother Mr.A.Chandran succeeded to the post of Managing Trustee and his other children viz. A.Sundararaj, i.e. the petitioner herein and his other siblings viz. A.Viswanathan and A.Prabhavathi became hereditary Trustees and were carrying out prosperous activities of the Trust as per the instructions stipulated in the Will of the Testator.

4. While so, some third parties viz. K.N.Savalappan and G.R.Chennabasappa interfered with the administration of the Trust and alleged that the Managing Trustee, A.Chandran was mismanaging the Trust by way of Trust Accounts. Hence, they filed O.S.No.192 of 1999 before the Sub-Court, Tirupattur, but the said Suit was filed without impleading the other hereditary Trustees, who are the children of Mr.Amarappa Chetty and siblings of Mr.A.Chandran and a decree was passed in the above Suit on 28.11.2005. Aggrieved by the said order, Mr.A.Chandran, Managing Trustee filed a First Appeal before the Sub-Court, Tirupattur belatedly, as he was ailing from jaundice and paralytic attack and the said petition was dismissed by this Court.

5. Since the petitioner was not removed from the post of hereditary Trustee, he made a representation to the respondents requesting them to appoint him as the hereditary Managing Trustee, as he is next in the line of succession for the post of Managing Trustee. Since the respondents turned deaf ear to his

representation, the petitioner initiated a legal notice dated 06.07.2016 through his Counsel to the 1st respondent, who, in turn, wrote a letter dated 22.07.2016 to the 2nd respondent to take necessary action. Since the petitioner was disturbed by third parties, he made a representation to the 1st respondent on 31.08.2016 in respect of his grievance. As there is no response from the respondents, the petitioner has come up with this Writ Petition.

6. Heard the learned counsel on either side and perused the material documents available on record.

7. When the matter is taken up for consideration, learned counsel for the petitioner submitted that the grievance of the petitioner would be redressed if the respondents are directed to consider the petitioner's representation dated 31.08.2016 and pass appropriate orders within a time frame.

8. In view of the above, without going into the merits of the case, this Court directs the respondents to consider the petitioner's representation dated 31.08.2016 on merits and in accordance with law and pass appropriate orders within a period of six weeks from the date of receipt of a copy of this order.

This Writ Petition is disposed of with the above direction. No costs.

sd/-
Assistant Register

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Sub Assistant Register

सत्यमेव जयते

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To:

1. The Commissioner,
Tamil Nadu Hindu Religious and
Charitable Endowment Department,
Nungambakkam High Road,
Chennai 600 034.

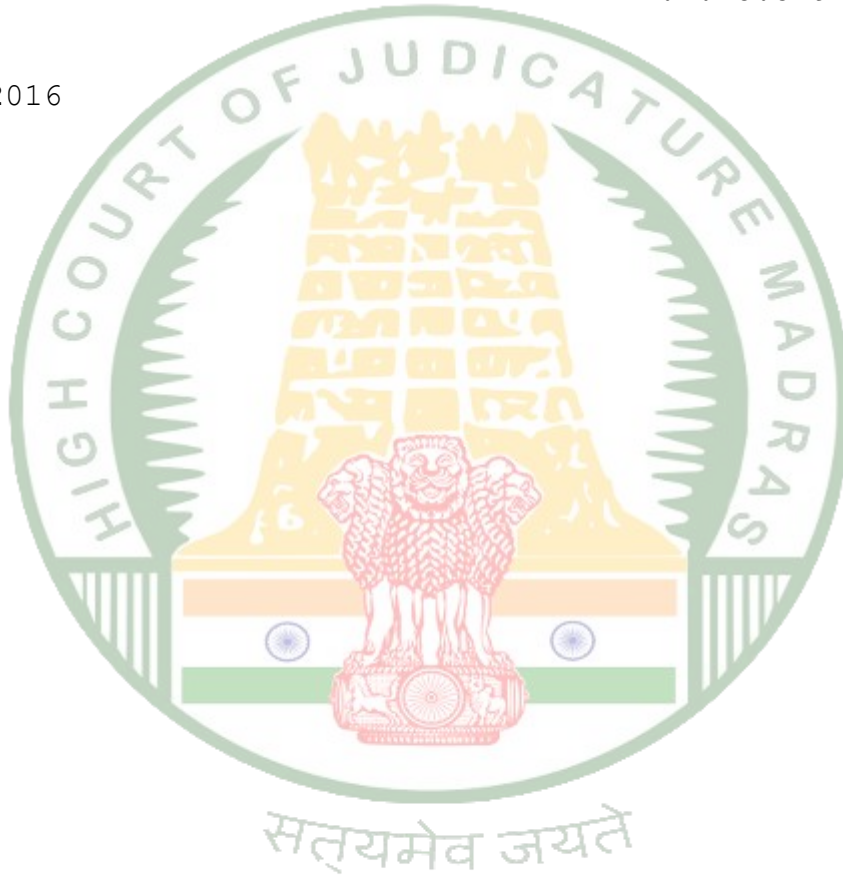
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2. The Joint Commissioner,
Tamil Nadu Hindu Religious and
Charitable Endowment Department,
RTO Office Road, Sathuvachari,
Vellore District - 632 009.

+ 1 cc to Mr.G.Thyagarajan, Advocate sr.68537

W.P.No.32949 of 2016

KS[CO]
VS 30/12/2016



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