

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.10.2016

CORAM:

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

W.P.No.36501/2016 & WMP.No.31411/2016

C.Sivaraman

.. Petitioner

Vs.

- 1.The Commissioner of Hindu Religious
& Charitable Endowment, Uthamar
Gandhi Salai, Nungambakkam
Chennai 600 034.
- 2.The Joint Commissioner
Hindu Religious
& Charitable Endowment, Salem.
- 3.The Assistant Commissioner
Hindu Religious
& Charitable Endowment, Salem.
- 4.The Thakkar
A/M Enathi Sendraya Perumal Thirukoil
at O/o.The Executive Officer,
A/M Prasanna Venkataramanasamy Tirukoil
Kadayampatti Taluk, Salem 636 305.
- 5.The Inspector
Hindu Religious
& Charitable Endowment, Omalur Range
Omalur-636455, Salem District.

6.Ramesh

..Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of mandamus directing the 2nd respondent to hear the petitioner and all other interested parties with regard to the appointment of Hereditary Trustee and Poojaris of the Eanthi Sri Sendraya Perumal Koil situated at Dasanur, Semmandapatty Village, Periyapatti Post, Kadayampatti Taluk, Salem District 636309 while hearing the petition filed by the 6th respondent under section 63[b] of the Tamil Nadu Hindu Religious & Charitable Endowment Act, 1996.

For Petitioner : Mr.S.Srinivasan
For RR 1 to 3 : Mr.M.Maharaja, Spl.GP
{HR&CE}

ORDER

Heard the learned counsel for the petitioner and Mr.M.Maharaja, learned Special Government Pleader {HR&CE} who accepts notice on behalf of the respondents 1 to 3 and with the consent on either side, the writ petition is taken up for final disposal.

2 The petitioner who is the hereditary Archakar/Poojari of the temple Arulmigu Enathi Sir Sendraya Perumal Tirukoil, situated at Dasanur, Semmandapatty Village, Periyapatti Post, Kadayampatti Taluk, Salem District, would state that from time immemorial, his forefathers were doing poojas as Hereditary Archakars/Poojaris and that the Administration of the temple is being managed by the 1st respondent and the 3rd respondent, by exercising the powers conferred u/s.49[1] of the Tamilnadu Hindu Religious & Charitable Endowment Act, 1996, [in short, "the Act"] has been appointed the petitioner's family as Hereditary Poojaris. While so, the respondents 4 and 5, misusing their powers, committed theft and a criminal complaint has been lodged against him, against which they have obtained anticipatory bail from this Court in Crl.OP.No.19480/2014 dated 25.07.2014. In the interregnum, the respondents 4 and 5 have handed over the keys and all the movable properties of the temple to the 6th respondent herein, who has no right whatsoever in the affairs of the temple.

3 It is the further case of the petitioner that the 6th respondent herein has filed a petition in OA.No.16/2014 under section 63[b] of the Act before the Joint Commissioner/the 2nd respondent herein, seeking for declaration, to declare that the Management of the temple shall vest with him as he is the Hereditary Trustee. In the said petition, the petitioner has not been impleaded and no opportunity of hearing was given to the petitioner. Pending the above proceedings, the 6th respondent along with two others filed a suit in OS.No.70/2015 against the 4th respondent and others, impleading the petitioner as the 4th defendant, praying for permanent injunction, restraining the defendants therein from disturbing the plaintiff/6th respondent herein, peaceful possession and enjoyment of the suit properties. The petitioner, in this regard, has submitted representations on various dates to the respondents 1 to 3 and the 3rd respondent, vide proceedings dated 30.08.2016, forwarded all the representations of the petitioner to the 4th respondent for appropriate action. In the meanwhile, it is the case of the petitioner that the 6th respondent is collecting funds in the form of donations from the general public in the name of temple and is depositing the same in his savings account and is not accounting the said funds and the Department is not able to stop the activities of the 6th respondent. Hence, having no other alternative remedy,

the petitioner is before this Court with the present writ petition.

4 Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner either in this writ petition or in his representations, directs the 2nd respondent to consider and dispose of the petition in OA.No.16/2014 filed by the 6th respondent under section 63[b] of the Act, on merits and in accordance with law after affording an opportunity of personal hearing to the petitioner as well as to the 6th respondent ; complete the enquiry and pass orders as expeditiously as possible, preferably within a period of four months from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner as well as to the 6th respondent herein.

5 The writ petition is disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

AP

To

- 1.The Commissioner of Hindu Religious & Charitable Endowment, Uthamar Gandhi Salai, Nungambakkam, Chennai 600 034.
- 2.The Joint Commissioner Hindu Religious & Charitable Endowment, Salem.
- 3.The Assistant Commissioner Hindu Religious & Charitable Endowment, Salem.
- 4.The Thakkar, A/M Enathi Sendraya Perumal Thirukoil at O/o.The Executive Officer, A/M Prasanna Venkataramanasamy Tirukoil Kadayampatti Taluk, Salem 636 455.
- 5.The Inspector, Hindu Religious & Charitable Endowment, Omalur Range Omalur-636455, Salem District.

+ 2 ccs to Mr.S. Srinivasan, Advocate SR.59100

+ 1 cc to Government Pleader Sr.60127

WP.No.36501/2016

MG (CO)

EU 20.12.16