

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2016

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.3878 of 2016
& WMP.Nos.3245 & 3246 of 2016

P.Thirumalisamy

... Petitioner

Versus

1. The Assistant Commissioner,
Hindu Religious and Charitable
Endowments Administration Department,
Tiruppur-4.

2. S.K.Dhanuskodi

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for a writ of certiorarified mandamus to call for the records of the first respondent made in proceedings SE.MU.NA.KA.No.1068/2015/ A2 dated 4/1/16 signed on 8/1/16 which was served on the petitioner on 11/1/16 and quash the same and consequently forbear the second respondent from interfering with the administration and the day-to-day affairs of Arulmighu Kattalamman, Uchikaliyamman and Oorpillayar Kovil situated at Samarayapatti, West Kumaralingam Village, Madathukulam Taluk, Tirupur District.

For Petitioner : Mr.N.Umapathi

For R1

: Mrs.Rita Chandrasekar

Special Government Pleader (HR & CE)

For R2

: Mr.T.S.Vijaya Ragavan

ORDER

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

2. One Mr.S.K.Dhanuskodi, the 2nd respondent herein, filed WP.No.35413/2015 praying for issuance of writ of mandamus, directing the Assistant Commissioner, HR&CE, viz., the 1st respondent herein, by appointing the non-hereditary trustees from time to time as contemplated under the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, within the

stipulated time to be fixed by this Court and this Court, upon hearing the rival submissions, has passed the following order on 03.11.2015:-

"4 Considering the above, the respondent herein is directed to take appropriate steps towards the appointment of a fit person in pursuance of the proceedings dated 17.07.2015, after getting a proposal from the Inspector of HR&CE Department, Udumalai. In the event of the respondent coming to a conclusion to appoint a fit person, then it is well open to him to hear the necessary parties as per law. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

5. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed."

3. Learned counsel for the petitioner would submit that the petitioner is functioning as a Hereditary Trustee from time immemorial and without giving any notice and without adhering to the above cited order, the 1st respondent has passed the impugned order appointing a fit person and prays for interference.

4. Per contra, Mrs. Rita Chandrasekar, learned Special Government Pleader [HR&CE] appearing for the 1st respondent would submit that the petitioner is having an effective alternate remedy u/s. 21-A of the Act and he may avail the said remedy.

5. This Court has considered the rival submissions and also perused the materials placed before it.

6. A perusal of the order dated 03.11.2015 made in WP.No.35413/2015 would disclose that an opportunity was granted to the respondent therein to hear necessary parties as per law within a stipulated time frame and decide the issue. In the light of the liberty granted, the respondent therein/1st respondent herein, has thought it fit not to summon the parties for the reason that on the earlier occasions, the petitioner had reiterated the fact that there is no need for appointing non-hereditary trustees/fit persons and therefore, passed the impugned order. In the considered opinion of the Court, since the petitioner is having an effective alternate remedy, he is at liberty to avail the same before the jurisdictional Joint Commissioner.

7. In the result, the writ petition is dismissed and the petitioner is at liberty to file an appeal u/s.21-A of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, before the jurisdictional Joint Commissioner, challenging the order of the 1st respondent dated 04.01.2016 within a period of two weeks from the date of receipt of a copy of this order and the jurisdictional Joint Commissioner, on receipt of the same shall entertain the said appeal, if the papers are otherwise in order and after putting the parties on notice and decide the same in accordance with law within a further period of six weeks thereafter. It is also open to the petitioner to move an application for stay pending disposal of the statutory appeal before the jurisdictional Joint Commissioner, who shall also decide the same in accordance with law, as expeditiously as possible. No costs. The interim order granted by this Court is vacated and consequently, the miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

AP

To

The Assistant Commissioner,
Hindu Religious and Charitable
Endowments Administration Department,
Tiruppur-4.

+1cc to Mr.N.Umapathi, Advocate, S.R.No.36047
+1cc to Mr.T.S.Vijaya Ragavan, Advocate, S.R.No.36096
+1cc to the Government Pleader, S.R.No.36348

W.P.No.3878 of 2016

RP(CO)
CA(30/06/2016)