

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2016

CORAM:

THE HON'BLE MR.JUSTICE B.RAJENDRAN

W.P.No.40606 of 2016

V.Janaki

... Petitioner

Versus

Joint Commissioner
Hindu Religious & Charitable
Endowments Department
Salem - 636 001.

... Respondent

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of mandamus, to direct the respondent to take the petition which was filed on 03.03.2016 in Serial No.006283 on file and decide the same in accordance with law about the registration of hereditary trustee as the persons next in the line of succession of deceased Vijayan.

For Petitioner : Mr.R.Ezhilarasan
For Respondent : Mr.M.Maharaja,
Special Govt. Pleader (HR&CE)

ORDER

The writ petitioner seeks to record her as a hereditary trustee in the place of erstwhile trustee, who is her husband. Though the petitioner has filed an application to record as a hereditary trustee and it is pending with the respondent, the petitioner claims that for considering the said application, the respondent is insisting her to get no objection certificate from the other co-legal heirs.

2. The learned counsel for the petitioner only contends that the petitioner and other legal heirs are at loggerheads and therefore, the petitioner could not obtain such no objection certificate from the other legal heirs. According to the learned counsel for the petitioner, the insistence of production of no objection certificate is only to comply with an empty formality when the petitioner has given adequate details about the line of succession and her entitlement to seek for trusteeship after the demise of her husband.

3. The learned counsel appearing for the respondent only submits that insistence of a no objection certificate is mandatory for considering the trusteeship claimed by the petitioner and it cannot be dispensed with. Therefore, the learned counsel for the respondent would only justify the action of the respondent.

4. I heard the learned counsel for both sides. The petitioner has filed an application before the respondent seeking to record her as hereditary trustee of Sri Muthatrayan Temple in Neruppur, Nagamarai Village, Dharmapuri District. According to the petitioner, her husband was the hereditary trustee of the temple and on his demise, as Class I legal heir, she is entitled to succeed the estate of her husband. Such a claim of the petitioner cannot be considered automatically. For considering the claim of the petitioner, the petitioner has to obtain no objection certificate from the other legal heirs and in the absence of the same, the respondent cannot be expected to consider the application of the petitioner. It is needless to mention that it is always open to the petitioner to implead the other legal heirs in the application filed by her before the respondent seeking hereditaryship and thereafter, the respondent can take up the application of the petitioner, hear the parties concerned and proceed further in accordance with law.

5. With the above direction, the writ petition is disposed of. No costs.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

To

Joint Commissioner
Hindu Religious & Charitable
Endowments Department
Salem - 636 001

+1 cc to Govt.Pleader,sr.67904

+1 cc to Mr.R.Ezhilarasan,advocate,sr.66879.

ss(co)
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