

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.7536 of 2016
and WMP.No.6749 of 2016

K.Venkataraman

... Petitioner

Vs.

The Joint Commissioner
Hindu Religious and Charitable
Endowment Department
Nungambakkam, Chennai-34.

2.The Assistant Commissioner
Hindu Religious and Charitable
Endowment Department
Nungambakkam, Chennai-34.

3.The Executive Officer,
Arulmighu Balasubramaniya Swamy Thirukoil
Teynampet, Chennai-18.

... Respondents

Writ petition is filed under Article 226 of the Constitution of India praying for issuance of Writ of mandamus to direct the third respondent not to take the charge of Arulmighu Sri Sakthi Ganapathy Alayam, CIT Nagar, Nandhanam, Chennai pending disposal of the revision petition in RC.No.1691 of 2016 pending before the first respondent herein.

For Petitioner : Mr.N.Velmurugan

For respondents : Mrs.Rita Chandrasekar,
Spl.GP (HR&CE) for R1 and R2.

O R D E R

With the consent of both sides, the Writ Petition is taken up for final disposal.

2.The petitioner has come forward with the present Writ Petition seeking for issuance of mandamus to direct the third respondent not to take the charge of Arulmighu Sri Sakthi Ganapathy Alayam, CIT Nagar, Nandhanam, Chennai pending disposal of the revision petition in RC.No.1691 of 2016 pending before the first respondent herein.

3.The petitioner is the Vice President of Sri Sakthi Ganapathy Alaya Seva Sangam. The said temple is a public temple constructed for the benefit of CIT nagar permanent residents in the year 1955 by the Sangam. The said sangam performed four kumbabhishagams in the year 1965, 1981, 2004 and 2011 for the temple. For better administration of the temple under the guidelines of the HR&CE Act, the petitioner and four others who are members of the sangam filed a petition under Section 64(1) of the HR&CE Act to frame a scheme of administration for the temple and the same is pending in OA.No.5 of 2015 for enquiry before the first respondent.

4.The petitioner states that the first respondent only has the power under Section 64(4) of the HR&CE Act to appoint fit person. But the second respondent without following the provisions under the Act appointed the third respondent as fit person for the temple. Aggrieved over the said order, the petitioner filed WP.3716 of 2015 before this court and this Court by an order dated 20.11.2015 disposed of the writ petition directing the petitioner to approach the statutory authority under Section 115-A of the HR&CE Act and also ordered status quo for four weeks from the date of receipt of the order. The petitioner preferred an appeal in WA.No.1816 of 2015, this Court disposed the writ appeal on 07.01.2016 directing the petitioner to approach the first respondent under Section 21A of the Act for statutory remedy and order status quo for two weeks.

5.Based on the order of this Court in WA.No.1816 of 2015, the petitioner filed revision petition before the first respondent on 17.02.2016 and the same is taken up on file on 18.02.2016 as RC.No.1691. Even though, the petitioner has filed revision petition on 17.02.2016 vide RC.No.1691 dated 18.02.2016, the revision petition was not taken up for enquiry. Whiles, now it appears that the third respondent at any time will take the charge of temple, though, the revision petition is pending. Hence, the petitioner filed the present writ petition.

6.The learned counsel appearing for the respondents 1 and 2, vehemently opposed the claim of the petitioner stating that the prayer in this writ petition itself is not maintainable. The learned counsel further submits that the petitioner has already filed revision petition under Section 21A of the Act for statutory remedy and the same is pending before the first respondent, hence, the petitioner cannot approach this Court for the same relief.

7.Considering the rival submissions made on both sides, this Court is of the view that the writ petition is liable to

be dismissed and the same is dismissed accordingly, on the ground that the petitioner has already filed revision petition under Section 21A of the Act for statutory remedy, the same is pending before the first respondent and the petitioner has to workout his remedy only before the first respondent by contesting the revision petition. However, this Court, directs the first respondent to dispose of the petitioner's revision petition in RC.No.1691 of 2016 preferably within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

The Joint Commissioner,
Hindu Religious and Charitable,
Endowment Department,
Nungambakkam, Chennai-34.

2.The Assistant Commissioner,
Hindu Religious and Charitable,
Endowment Department,
Nungambakkam, Chennai-34.

3.The Executive Officer,
Arulmighu Balasubramaniya Swamy Thirukoil,
Teynampet, Chennai-18.

+1cc to Mr.N.Velmurugan, Advocate, S.R.No.13013

+1cc to the Government Pleader, S.R.No.13896

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rsk(CO)

srg(21/03/2016)