

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.9378 of 2016

1.V.Jothi
2.P.Vijayalakshmi ..Petitioners

Vs.

1.The Joint Commissioner,
Hindu Religious and Charitable
Endowment Department,
Chennai 600 034.

2.M.Kalavathi ..Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus directing the first respondent to pass orders in the petition in R.C.No.14836 of 2014, dated 12.12.2013 pending on the file of the first respondent.

For Petitioners : Mr.V.Chandrakanthan

For Respondents : Mr.K.V.Dhanapalan,
AGP (HR&CE)

ORDER

The petitioners have come up with the present writ petition for a mandamus, directing the first respondent to pass orders in the petition in R.C.No.14836 of 2014 filed on 12.12.2013 pending on the file of the first respondent.

2. It is the case of the petitioners that their father by name M.Pasupathi Mudaliar was declared as Hereditary Trustee of Sri Arulmighu Adi Adipadai Prasannava Vinayagar Temple situated at Old No.136, New No.369, Mint Street, Chennai- 600 079, by an order of the Commissioner, HR&CE Department, Chennai dated 14.02.1980 in A.P.No.145 of 1977 and he discharged his duties as such till his death i.e., on 21.03.2003. Thereafter, the petitioners and the second respondent, who is the daughter of the deceased Pasupathi Mudaliar through his first wife, being

the legal heirs of the said Pasupathi Mudaliar, are entitled to appoint them as Hereditary Trustees for the vacancy arose to maintain the temple in question.

3. It is the further case of the petitioners that while so, the second respondent filed a petition in MP.No.306 of 2009 under section 54(1) of the Tamil Nadu Hindu Religious and Charitable Endowment Act for recording her name as succession to the office of the Hereditary trusteeship. In the said petition, though the petitioners were impleaded, no notice was issued to them, due to incorrect address given by the second respondent. However, by order dated 21.07.2010, the first respondent appointed the second respondent as hereditary trustee and granted liberty to the petitioners to file a separate petition to record them also as trustees. On coming to know about the said order, the petitioners filed a petition in RC.No.14836/2014 to implead them as trustees. They also filed their proof affidavit in July 2015 and made their arguments on 14.10.2015. However, till date, no order has been passed. In the mean while, taking advantage of her appointment as trustee, the second respondent is preventing the petitioners to act as trustees. Therefore, the petitioner has filed the present petition for the above stated relief.

4. Heard the learned counsel for the petitioners and the learned Additional Government Pleader, who took notice for the first respondent.

5. Considering the facts and circumstances of the case, this Court directs the first respondent to consider the petition in RC.No.14836 of 2014 filed by the petitioners on 12.12.2013, by affording an opportunity of personal hearing to the petitioners as well as to the second respondent and other necessary parties, if any and pass appropriate orders. It is made clear that this Court is not expressing any opinion with regard to the merits of the claim made by the petitioners and it is for the first respondent to pass appropriate orders purely on merits and in accordance with law. The entire exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

6. The writ petition is disposed of accordingly. No costs.
rk

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Chennai 600 034.

+ 1 cc to Mr.V.Chandrakanthan, Advocate Sr 16174

+ 1 cc to The Govt.Pleader, Sr 16662

KR/31/3/16

W.P.No.9378 of 2016



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