



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.06.2016

CORAM :

THE HONOURABLE MR.JUSTICE NOOTY.RAMAMOHANA RAO
and
THE HONOURABLE MR.JUSTICE S.S.SUNDAR

Writ Appeal (MD) No.862 of 2016
and
C.M.P (MD) No.5161 of 2016

Saisiva @ Sivasubramanian

..Appellant/Petitioner

Vs.

1.The Joint Commissioner,
The Hindu Religious and Charitable
Endowment Department, Madurai.

2.The Thakkar/Executive Officer,
A/m.Muthalamman Temple,
Vilampatti, Nilakottai Taluk,
Dindigul District,
Office of Kamatchiamman Kovil,
Devadanapatti, Periyakulam Taluk,
Theni.

3.V.S.Thiruburasundari

..Respondents/Respondents

Appeal filed under Clause 15 of the Letters Patent against the Order dated 13.04.2016 made in W.P.(MD).No.7218 of 2016 on the file of this Court.

Prayer in WP(MD). 7218/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari calling for the records relating to the proceedings of the impugned order in Se.Mu.Na.Ka.No. 825/2016/A1 dated 06.02.16 on the file of the 1st respondent and quash the same.

For Appellant	: Mr.G.Prabhu Rajadurai
For Respondents 1&2	: Mr.V.R.Shanmuganathan, Special Government Pleader.
For 3 rd Respondent	: Mr.N.Dilipkumar

JUDGMENT

(Judgment of the Court was delivered by NOOTY.RAMAMOHANA RAO,J)

This writ appeal is preferred by the writ petitioner whose writ petition in W.P(MD)No.7218 of 2016 has been dismissed by this Court by its order dated 13.04.2016.



2.To cut short a long story, all we need to point out is that in 1991, the competent authority in exercise of power available to him under Section 63(b) of the Hindu Religious and Charitable Endowments Act, 1959 has passed an order recognising the hereditaryship in favour of one particular branch of the family to which the third respondent claims to belong. That was the subject matter of challenge in a civil suit, O.S.No.652 of 2003 instituted on the file of the I Additional Sub Court, Dindigul by this very writ petitioner/appellant which is still pending.

3.We are now informed at the Bar that in the suit in O.S.No.652 of 2003, all the three relevant and contesting branches of the family are made parties. As of now, the suit is still pending and it is contested very seriously, at any rate by the branch to which the third respondent herein belongs and therefore, it is very clear that until and unless, the suit is decided upholding or recognising the right of the plaintiff therein to succeed as a trustee of the said temple, the writ petitioner/appellant cannot dislodge the third respondent from functioning as a hereditary trustee.

4.If one were to choose between a fit person who can be appointed as such under Section 54(3) of the Act and a hereditary trustee recognised as such under Section 63, it is always appropriate that hereditary trustee should be permitted to manage the institution so that aims and objects of the institution can be better served. We find no merit in this appeal and the view taken by the learned single Judge is not in an erroneous one.

5.We hope and trust that the suit in O.S.No.652 of 2003 being a fairly old suit would be taken up for consideration and decided as expeditiously as possible before the Courts close for the next term of pooja holidays.

6.The writ appeal is accordingly dismissed. No costs. Consequently, C.M.P(MD)No.5161 of 2016 is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS)
Madurai Bench of Madras High Court,
Madurai-23.

To

1.The Joint Commissioner,
The Hindu Religious and Charitable
Endowment Department, Madurai.



2.The Thakkar/Executive Officer,
A/m.Muthalamman Temple,
Vilampatti, Nilakottai Taluk,
Dindigul District, Office of Kamathiamman Kovil,
Devadanapatti, Periyakulam Taluk, Theni.

+1cc to M/s.G.Prabhu Rajadurai, Advocate in SR.30447

+1cc to M/s.N.Dilipkumar, Advocate in SR.30795

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sms

PBK/AAL-MPA/SAR-III 22/06/2016 ::3P-5C::