



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.07.2016

CORAM

WEB COPY

THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.P.(MD) No.11703 of 2016

A.Ponmariappan

.. Petitioner

vs.

1.The Inspector General of Registration,
Santhome High Road, Chennai.

2.The District Registrar,
District Registrar Office,
Thoothukudi,
Thoothukudi District.

3.The Sub Registrar,
Ettaiyapuram Sub Registrar Office,
Ettaiyapuram,
Thoothukudi District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents to consider the Petitioner's representation dated 07.04.2016.

For Petitioner : Mr.K.Chengiz Khan

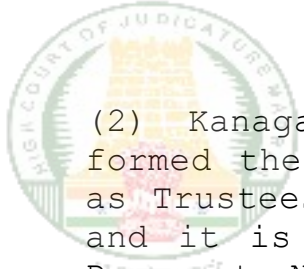
For Respondents : Mr.K.Mahesh Raja
Government Advocate

O R D E R

Heard the Learned counsel for the Petitioner and the Learned Government Advocate for the Respondents.

2.According to the Petitioner, he is functioning as President of T.Arunachalapuram Ponmadasamy Temple Society, which is formed to regulate and to manage the Temple viz., Ponmadasamy Temple situated in T.Arunachalapuram Village, Ettaiyapuram Taluk, Thoothukudi District. The said Temple is a renowned one in the village and a particular sect of Paramanandha Nadars' family and group used to worship and celebrates festivals of the Temple.

<https://hcservices.ecourtservice.in/hcservices/>
3.The object of the Petitioner is that in the said premises a Trust was formed in the name and style as T.Arunachalapuram Ponmadasamy Temple Trust by four persons vzi., (1) Shanmugam Nadar



(2) Kanagarajan (3) Adhi Gurusamy and (4) Chandramohan. They formed the Trust on 16.07.2003 and particularly placed themselves as Trustees. The Trust deed also prepared for the so called Trust and it is also registered with the Third Respondent's office in Document No.250/2003. In fact, the said Trust Deed deals with specific details about its beneficiaries and the aims and objects of the Trust.

4. According to the Petitioner, the said Trust is created for the benefits of Paramanandha Nadars' family particularly reside in T.Arunachalapuram Village and any male persons belongs to Paramanandha Nadar sect and attained the age of majority can eligible to become the member of the Trust. In fact, the Trust itself is not functioning properly and the so called Trustees make profit out of the Temple's income and they particularly acted against the aims and objectives of the Trust deed. Furthermore, the members of the Trust were added and deleted according to the wish and desire of the Trustees in order to avoid the interference in their mismanagement.

5. It comes to be known that the Trustees had never submitted the accounts for the collection of Hundial amount and the subscriptions amount collected from the members of the Trust by conducting the general body meeting. In view of the said attitude, the income accrued from the Temple is completely used for the luxurious life of the Trustees and violated charitable purpose enumerated in the aims and objectives of the Trust deed.

6. Further, the Trustees intentionally suppressed a property measuring about 60 cents belong to the Temple and shown that the Temple has no assets other than the Temple land. However, every year, the Temple Festival is announced and celebrated in the monopoly manner only with the acquaintance and the family members of the Trustees. Even village people, who belong to the said sect though have the right to participate in the Temple festival were deliberately sidelined from the participating in the Temple festival in order to avoid the verification of Temple accounts. In the guise of maintaining the Trust, the Temples' income were swindled by its own Trustees in the high handed manner and the Petitioner being the President of T.Arunachalapuram Ponmadasamy Kovil Society, raised questions about the illegalities committed in the Trust and sent many representations to take action upon the Trustees and to set aside the Trust Deed, dated 16.07.2003 registered in Document No.250/2003.

7. The grievance of the Petitioner is that he sent representations dated 13.01.2016 and 07.03.2016 mentioning the said illegalities to the Office Bearers and requested them to send the accounts of the Temple by resolving the General Body meeting. Since there is silence on the part of the Office Bearers of the Trust and since they had proceeded to carry out their usual



mismanagement activities in the Temple affairs, the Petitioner once again sent representation to the Respondents on 07.04.2016 requesting them to take immediate action in the illegalities took place in T.Arunachalapuram Ponmadasamy Temple.

8.The unequivocal stand of the Petitioner is that although the Respondents have the power to monitor and regulate the illegalities in the private Trust under the provisions of Law, they have not chosen to take any action after the Petitioner's series of representations. Hence, he has filed the present writ petition.

9.Per contra, it is the submission of the Learned Government Advocate for the Respondents that there is no proof filed by the Petitioner to expose the activities of the Trust and furthermore, there is vibrant dispute between the Petitioner and the Trust members. In this connection, it is represented on behalf of the Respondent that at the time of Trust deed being executed by Trustees, it is the duty of the Third Respondent/Joint Sub-Registrar, Ettaiyapuram, Thoothukudi District to verify the documents and register the same and although as per Section 74 of the Indian Evidence Act, 1872, whenever any such vacancy and disqualification occur and it is found impracticable to appoint a new Trustee under Section 73 of the Act, the beneficiary may, without instituting a suit, apply by petition to a Principal Civil Court of Original Jurisdiction for appointment of a Trustee or a new Trustee and the Court may appoint a Trustee or a new Trustee accordingly etc.

10.The plea taken on behalf of the Respondents is that the Respondents have no power to cancel the deed of the Trust and in this regard, the Petitioner is to approach the competent Civil Court for redressal of his grievances.

11.In view of the fact that the Petitioner himself at paragraph No.4 of his affidavit of the writ petition had clearly stated to the effect that 'but the said Trust is not functioning properly from the date of its inception etc.', and also this Court bearing in mind the yet another fact that the Petitioner prays for immediate action being taken because of the illegalities that took place in T.Arunachalapuram Ponmadasamy Temple etc., this Court is of the considered view that for the cancellation of Trust Deed, it is open to the Petitioner to go before the competent Civil Court and to file a necessary suit seeking appropriate remedy, that too, in the manner known to Law and in accordance with Law. Viewed in that perspective, the present writ petition fails.

12.In the result, the writ petition is dismissed leaving the Petitioner to pay their own costs. It is abundantly made clear by this Court that the dismissal of the writ petition will not preclude the Petitioner to approach the competent Civil Court and



to seek redressal of his grievance in the manner known to Law and in accordance with Law. If such a Civil Suit is filed by the Petitioner, then, it is open to the Petitioner to raise all factual and legal pleas.

WEB COPY

/True copy/

Sd/-
Assistant Registrar(Crl.side)

Sub Assistant Registrar

To:

1.The Inspector General of Registration,
Santhome High Road, Chennai.

2.The District Registrar,
District Registrar Office,
Thoothukudi,
Thoothukudi District.

3.The Sub Registrar,
Ettaiyapuram Sub Registrar Office,
Ettaiyapuram,
Thoothukudi District.

+1cc to Special Government Pleader sR.No.39744

rj2

sm:NGM-MP:02.08.2016:4P/5C

W.P. (MD) No.11703 of 2016
26.07.2016