

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.10.2017

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A NO.115 OF 2017

1.T.R.T.Gunasekaran
2.Dr.Saravanan
3.N.K.Alwar

...Appellants/Petitioners

Vs

The Joint Commissioner,
The Hindu Religious Charitable and
Endowment Department,
Coimbatore.

...Respondent/Respondent

Prayer:- Writ Appeal filed under clause 15 of Letters Patent,
against the order made in W.P.No.33361 of 2016 dated 23.09.2016.

W.P.No.33361 of 2016:- Petition filed under Article 226 of the
Constitution of India to issue a Writ of Mandamus direction the
respondent to appoint the petitioners as the non-hereditary
trustees of Arulmigu Ramalinga Sowdeeswari Amman Temple,
Kovai in consonance with the scheme settled by the respondent in
O.A.No.54/85/B1 dated 30.10.1986 based on their applications
dated 11.07.2016 made to the respondent.

For Appellants : Mr.V.P.K.Gowtham

For Respondent : Mr.M.Maharaja

Special Govt.Pleader (HR & CE)

सत्यमेव जयते
J U D G M E N T

K.K. SASIDHARAN, J.

This intra court appeal is directed against the order dated
23 September 2016, dismissing the writ petition filed by the
appellant in W.P.No.33361 of 2016 for issuance of a writ of
mandamus directing the Joint Commissioner, Hindu Religious and
Charitable Endowments Department (hereinafter referred to as "HR
& CE" Department) to appoint them as non-hereditary trustees of
Arulmigu Ramalinga Sowdeeswari Amman Temple, Kovai, in
consonance with the Scheme settled by the HR & CE Department in
O.A.No.54/85/B1 dated 30 October, 1986.

2. The appellants taking into account the Scheme framed in respect of the temple submitted application on 11 July, 2016, requesting the Joint Commissioner to appoint them as non-hereditary trustees of the temple. The application was not considered on the ground that the department is yet to call for applications for such appointment. The appellants therefore filed writ petition in W.P.No.33361 of 2016. The learned single Judge dismissed the writ petition on the ground that the appellants have no right to claim appointment and their right is only to make application whenever notification is issued by the HR & CE Department.

3. We have heard the learned counsel for the appellants. We have also heard the learned Special Government Pleader on behalf of the respondent.

4. The Scheme framed by the HR & CE Depart in O.A.No.54/85/B1 dated 30 October, 1986, provides for appointment of non-hereditary trustees to the temple in question. It is a matter of record that the HR & CE Department is yet to appoint non-hereditary trustees to the temple pursuant to the Scheme. It was only in the said circumstances the appellants submitted application on 11 July, 2016. Even though a reply was given on 16 August, 2016 that notification would be issued by the Department, the fact remains that no such notification is issued till date. The respondent cannot be heard to say that the right of the persons, who are relying on the Scheme is only to make an application whenever notification is issued. We are therefore of the view that interest of justice would be sub served by directing the Joint Commissioner to consider the application submitted by the appellants on 11 July, 2016 on merits.

5. We therefore, issue a writ in the nature of mandamus by directing the Joint Commissioner, HR & CE Department to consider and dispose of the application submitted by the appellants dated 11 July, 2016 on merits and as per law. Such exercise shall be completed within a period of three months from the date of receipt of a copy of this judgment.

6. In the up shot, we allow the intra court appeal. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

svki

To

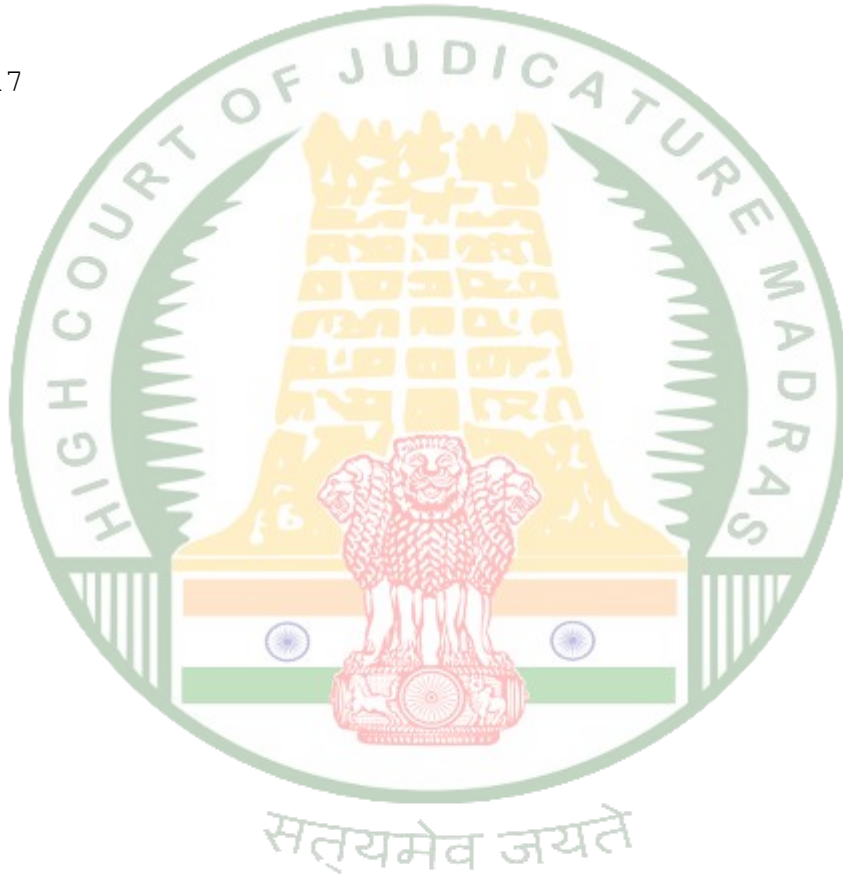
The Joint Commissioner,
The Hindu Religious Charitable and
Endowment Department,
Coimbatore.

+1cc to Mr.V.P.K.Gowtham, Advocate, S.R.No.75044

+1cc to the Government Pleader, S.R.No.74484

W.A No.115 of 2017

KK(CO)
CS/13/11/17



WEB COPY