

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.06.2017

CORAM

THE HONOURABLE MR. JUSTICE M.DURAI SWAMY

W.P.Nos.3478 of 2014 and 12668 of 2017
and
W.M.P.Nos.1, 2 of 2014 and 13497 of 2017

Sri Kanniamman Temple,
Rep. by its Hereditary Trustee,
P.Raghupathy Naicker ... Petitioner IN both the
Petitions

Vs

1. The Commissioner,
Hindu Religious and Charitable
Endowments Department,
Nungambakkam High Road,
Chennai - 600 034. 1st Respondent in
WP.No.12668/2017
2. The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department,
Vellore - 9.
3. The Assistant Commissioner,
Hindu Religious and Charitable
Endowments Department,
Kancheepuram.
4. The Inspector,
Hindu Religious and Charitable
Endowments Department,
Chengalpet. Respondents in both
the petitions

Prayer in W.P.No.3478 of 2014: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus, calling for the records pertaining to the impugned proceeding of the 2nd Respondent in Na.No.7002/2000/E1 dated 23.08.2013 and quash the same

as illegal without jurisdiction and ultravires and direct the 1st Respondent therein to dispose M.P.No.6 of 2012 on his file on merits.

Prayer in W.P.No.12668 of 2017: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus, forbearing the respondents, their men, agents from interfering with the hereditary trusteeship rights of the petitioner temple unless due process of law.

For Petitioner : Mr.D.Rajagopal

For Respondents: Mr.M.Maharaja,
Special Government Pleader
for HRCE.

C O M M O N O R D E R

Mr.M.Maharaja, learned Special Government Pleader, takes notice for the respondents.

2. By consent, the main writ petitions itself are taken up for final disposal at the admission stage itself.

3. The writ petition in W.P.No.3478 of 2014 has been filed by the petitioner temple, to issue a writ of certiorarified mandamus, calling for the records pertaining to the impugned proceeding of the 2nd Respondent dated 23.08.2013 and quash the same and to direct the 1st Respondent to dispose of the M.P.No.6 of 2012 pending on his file in accordance with law.

4. The writ petition in W.P. No. 12668 of 2017 has been filed by the petitioner temple to issue a writ of mandamus, forbearing the respondents from interfering with the hereditary trusteeship rights of the petitioner temple unless due process of law.

5. It is the case of the petitioner that when resorting to the procedures laid down in the Tamil Nadu Hindu Religious and Charitable Endowments Act, the

respondent authorities are trying to interfere with the affairs of the temple under the guise of inspection of the temple without proceeding in a manner known to law.

6. Mr.M.Maharaja, learned Special Government Pleader, appearing for the respondents submitted that the respondents shall not interfere with the hereditary trusteeship of the petitioner temple, except under due process of law. Further, the learned Special Government Pleader submitted that the respondents will only initiate the legal proceedings against the petitioner, if necessary.

7. In view of the submissions made by the learned counsel on either side, I make it clear that the respondents shall not interfere with the hereditary trusteeship, rights of the petitioner temple, except under due process of law. The respondents shall only initiate proceedings under the Hindu Religious and Charitable Endowments Act for taking any action against the petitioner temple in respect of the hereditary trusteeship rights.

8. So far as the writ petition in W.P.No.3478 of 2014 is concerned, the respondents initiated proceedings against the petitioner under Section 53 of the Tamil Nadu Hindu Religious and Charitable Endowments Act and the 2nd respondent had passed the impugned order dated 23.08.2013, initiating action under Section 53 of the Tamil Nadu Hindu Religious and Charitable Endowments Act. It is not in dispute that the petitioner has filed a petition in MP No. 6 of 2012 on the file of the 2nd respondent to record him as the hereditary trustee cum poojari of the temple, under Section 54(1) of Tamil Nadu Hindu Religious and Charitable Endowments Act in the line of succession of late father Pravalavarna Naicker. Admittedly, the said petition is pending before the 2nd respondent for consideration.

9. The learned counsel on either side submitted that the 2nd respondent may be directed to dispose of the petition in M.P.No.6 of 2012 in accordance with law, within a time frame.

10. In view of the submissions made by the learned counsel on either side, I direct the 2nd respondent to dispose of the petition in M.P.No.6 of 2012 in accordance with law, after giving notice to all the interested parties within a period of three months from the date of receipt of a copy of this order.

With these observations, both the writ petitions are disposed of . No costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

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To

1. The Commissioner,
Hindu Religious and Charitable
Endowments Department,
Nungambakkam High Road,
Chennai - 600 034.
2. The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department,
Vellore - 9.
3. The Assistant Commissioner,
Hindu Religious and Charitable
Endowments Department,
Kancheepuram.
4. The Inspector,
Hindu Religious and Charitable
Endowments Department,
Chengalpet.

+2ccs to Mr.D.Rajagopal, Advocate sr.44249 & 44250

W.P.Nos.3478 of 2014 and 12668 of 2017

pa(co)
ss(5/7/2017)