

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2017

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

WP.No.3433 of 2012 &  
MP.No.1 of 2012

1. R.Venkatesan
2. R.Nagarajan

.... Petitioners  
Vs

- 1.The Joint Commissioner,  
Hindu Religious and Charitable  
Endowment (Administration) Department,  
Chennai-600 034.
- 2.The Executive Officer,  
A/m.Pathrakali Amman Temple,  
Mecheri,  
Mettur Taluk,  
Salem District.

... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Certiorarified Mandamus to call for the records of the first respondent herein in his proceedings made in Se.Mu.Na.Ka.No.10290/2011/A2 dated 01.12.2011 and quash the same as illegal and consequently direct the first respondent to record the petitioners' succession to the office of hereditary trusteeship of Arulmigu Erkonda Roy Perumal Temple at Virudasampatti, Mettur Taluk, Salem District.

For Petitioner : Mr.K.Jayaraman  
For RR1 & 2 : Mr.M.Maharaja  
Spl. Govt. Pleader

ORDER

The petitioners have approached this Court seeking the following relief:

'To issue a Certiorarified Mandamus to call for the records of the first respondent herein in his proceedings made in Se.Mu.Na.Ka.No.10290/2011/A2 dated 01.12.2011 and quash the same as illegal and consequently direct the first respondent to record the petitioners'

succession to the office of hereditary trusteeship of Arulmigu Erkonda Royya Perumal Temple at Virudasampatti, Mettur Taluk, Salem District.'''.

2. According to the petitioners, they are co-hereditary Trustees of Arulmigu Erkonda Royya Perumal Temple situated at Virudasampatti, Mettur Taluk, Salem District. The petitioners' fathers viz., Raja Iyer and Ramanuja Iyer were declared as hereditary trustees by an order of the Deputy Commissioner, Hindu Religious and Charitable Endowment (hereinafter referred as "HR & CE" ), Salem, dated 30.08.1973. Both Raju Iyer and Ramanuja Iyer died on 02.10.1993 and 09.12.2007 respectively. On the death of their fathers, the petitioners have succeeded to the official trustees of the said temple in terms of provision of HR & CE Act 22 of 1959. Although by virtue of being legal heirs of the demised persons, they succeeded to the post of hereditary trustees, nevertheless, the same was required to be recorded by the officials in terms of rules and regulations of HR & CE Act.

3. Therefore, in the above circumstances, the applications were filed before the Joint Commissioner, HR & CE, Salem, for appointing them as hereditary trustees. However, the Joint Commissioner, without disposing of the miscellaneous petitions filed by the petitioners, had proceeded to appoint the second respondent as a fit person of the temple without notice to the petitioners, on 01.12.2011. The said order appointing the second respondent as a fit person is put to challenge in this writ petition.

4. The Learned counsel for the petitioners would submit that without passing orders in the miscellaneous petitions filed by the petitioners and directing to appoint the second respondent as an Executive Officer is contrary to the rules position and the same is liable to be interfered with.

5. This Court is of the considered view that there is some force in the contention put forth by the learned counsel for the petitioners that without passing orders in the miscellaneous petitions filed by the petitioners, the appointment of the second respondent as a fit person is unjustifiable in law.

6. In view of the same, the impugned order passed by the first respondent in Se.Mu.Na.Ka.No.10290 / 2011 / A2, dated 01.12.2011, is set aside. The first respondent is directed to dispose of the miscellaneous petitions filed by the petitioners, within a period of eight weeks from the date of receipt of a copy of this order.

7. With the above direction, the Writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The Joint Commissioner,  
Hindu Religious and Charitable  
Endowment (Administration) Department,  
Chennai-600 034.

2.The Executive Officer,  
A/m.Pathrakali Amman Temple,  
Mecheri,  
Mettur Taluk,  
Salem District.

+1 cc to M/s.G.Sumitra Advocate sr 87034

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aa21/12/2017

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