

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.01.2017

CORAM

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

W.P. No. 27188 OF 2013 &
M.P.No.1 of 2013

A/M.Sri Palmariyamman Thirukkivil

Arakkattalai (Trust),
Rep. by its President-K.Bathrusamy,
D.No.16-D-1, Thillai Nagar,
Rathinapuri Post,
Coimbatore - 641 027.

.. Petitioner

Vs

1.The Joint Commissioner,
Hindu Religious Charitable Endowment
Department,
Coimbatore Division,
Office of the Joint Commissioner,
Coimbatore.

2.The Assistant Commissioner,
Hindu Religious Charitable Endowment Department (Admn),
Coimbatore.

3.Fit Person
A/m.Sri Palmariyamman Thirukkivil
Arakkattalai (Trust),
D.No.16-D-1, Thillai Nagar,
Rathinapuri Post, Coimbatore-641 027,
also the Executive Officer,
A/M.Sangameswaran Temple,
Kottai, Kovai Taluk,
Kovai District.

4.M.Ramasamy,
(R4 is impleaded as per order
dated 21.10.2016 by MSRJ in
M.P.No.1/2015 in W.P.No.27188/2013)

.. Respondents

PRAYER: This petition is filed under Article 226 of the Constitution of India to issue a writ in the nature of Writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the 2nd respondent dated 21.08.2013,

bearing Nada Na.Ka.No.3882/2013/A7 and quash the same and consequently restrain the second respondent herein from appointing a Thakkar or Fit Person without giving the petitioner a due regard.

For Petitioner : Mr.V.K.Gowtham

For Respondents : Mr.R.P.Prathap Singh
Government Advocate (HR&CE)
for R1 to R3
Mr.A.Thiagarajan for R4

O R D E R

The writ petition has been filed by the petitioner praying for issuance of a Certiorarified Mandamus, to call for the records pertaining to the order passed by the 2nd respondent dated 21.08.2013, bearing Nada Na.Ka.No.3882/2013/A7 and quash the same and consequently restrain the second respondent herein from appointing a Thakkar or Fit Person without giving the petitioner a due regard.

2.Learned counsel for the petitioner submitted that the second respondent by issuing the impugned order has failed to discharge his statutory duties under the provisions of the Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959.

3.Learned Government Advocate appearing for the respondents 1 to 3 has relied upon the decision of this Court in ARULMIGHU BALAGURUNATHASAMY SAMETHA ANGALA PARAMESWARI AMMAN THIRUKOIL VS. THE ASSSISTANT COMMISSIONER, Department of Hindu Religious and Charitable Endowment, Malaivasal, Trichy & Others reported in 2014 (2) CWC 284, wherein, this Court has held as follows:

"20.Even assuming for a moment, if there is any violation of Principles of Natural Justice in passing the impugned order, this Court cannot entertain a petition under Article 226 of the Constitution of India, if an effective alternative remedy is available to the aggrieved person or the statute, under which the action complained of, itself contains a mechanism for redressal of grievance. In this regard, useful reliance could be placed in the case of Commissioner of Income Tax & Others v. Chhabil Dass Agarwal, 2014(1) SCC 603, wherein the Hon'ble Apex Court has held as follows:

"19.Thus, while it can be said that this Court has recognized some exceptions to the rule of alternative remedy, i.e., where the Statutory Authority has not acted in accordance with the provisions of Judicial Procedure

of the enactment in question, or in defiance of the fundamental Principles of Judicial Procedure, or has resorted to invoke the provisions which are repealed, or when an order has been passed in total violation of the Principles of Natural Justice, the proposition laid down in Thansingh Nathmal case, Titagarh Paper Mills case and other similar Judgments that the High Court will not entertain a Petition under Article 226 of the Constitution if an effective alternative remedy is available to the aggrieved person or the statute under which the action complained of has been taken itself contains a mechanism for redressal of grievance still holds the field. Therefore, when a statutory forum is created by law for redressal of grievances, a Writ Petition should not be entertained ignoring the statutory dispensation."

Therefore, I am of the opinion, when an efficacious alternative remedy is available under the HR & CE Act, the petitioner cannot straightaway approach this Court under Article 226 of the Constitution of India. Finally, I am of the opinion, no case has been made out warranting interference of this Court in the order passed by the First Respondent. Therefore, the Writ Petition fails and the same is liable to be dismissed."

4.The learned Government Pleader would submit that pursuant to the impugned order dated 21.08.2013 passed by the second respondent/the Assistant Commissioner, the third respondent was appointed as fit person for A/M.Sri Palmariyamman Thirukkivil Arakkattalai (Trust) and he was taken charge from 27.09.2013 onwards. He would further submitted that this Court has granted an order of status quo on 01.10.2013.

5.In the light of the above decision, this writ petition is dismissed with liberty to the petitioner to go before the second respondent/the Assistant Commissioner, Hindu Religion & Charitable Endowment, Coimbatore, seeking remedy, within a period of four weeks from the date of receipt of a copy of this order, if he is so advised. No costs. Interim order granted by this Court in M.P.No.1 of 2013 is vacated and the same is dismissed.

sd/
Assistant Registrar(CCC)

/true copy/

Sub Assistant Registrar

kal

To

1.The Joint Commissioner,
Hindu Religious Charitable Endowment
Department,
Coimbatore Division,
Office of the Joint Commissioner,
Coimbatore.

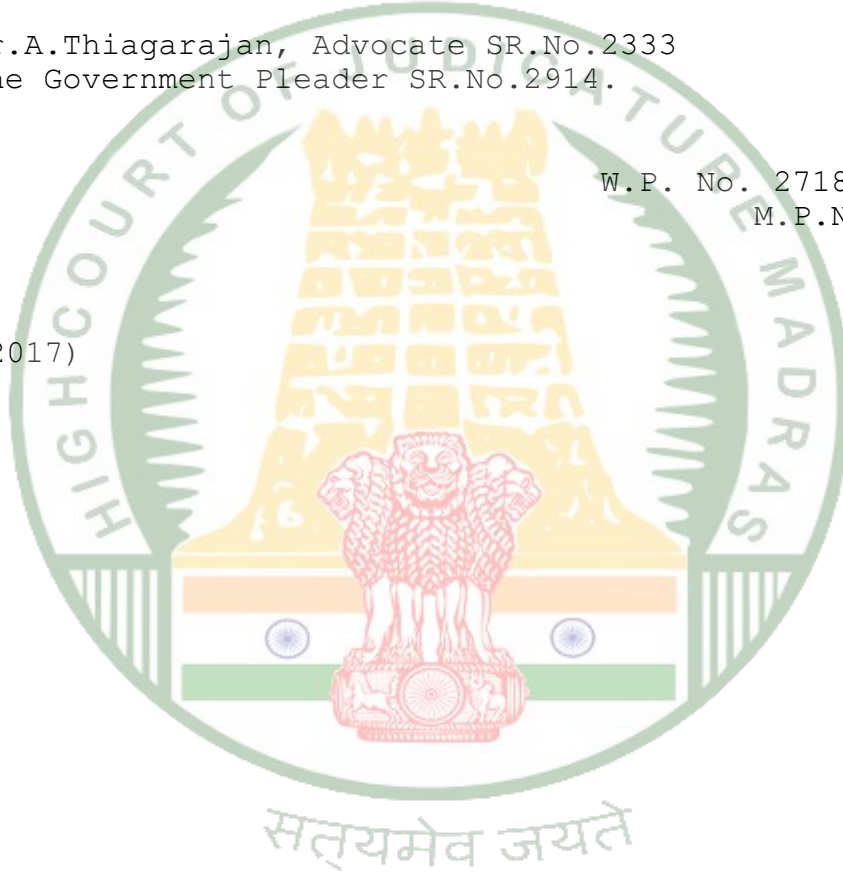
2.The Assistant Commissioner,
Hindu Religious Charitable Endowment Department (Admn),
Coimbatore.

+1cc to Mr.A.Thiagarajan, Advocate SR.No.2333

+1cc to the Government Pleader SR.No.2914.

W.P. No. 27188 OF 2013 &
M.P.No.1 of 2013

CV (CO)
GN (07/02/2017)



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