



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on 17.04.2017
Pronounced on : 28.04.2017

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE **V. PARTHIBAN**

W.P.(MD) Nos.18970 and 22566 of 2015
and
M.P(MD)Nos.1, 1, 2 and 2 of 2015

P.S.Muthusamy : Petitioner in both petitions

Vs.

1. The Joint Commissioner,
H.R and C.E., Department,
Trichy - 16.

2. The Assistant Commissioner,
H.R and C.E., Department,
Karur.

3. P.Subramanian
(R3 is impleaded vide court order dated 18.02.2016
in M.P(MD)No.3 of 2015 : Respondents in W.P.(MD) No.18970 of 2015

1. The Joint Commissioner,
H.R and C.E., Department,
Trichy - 16.

2. The Assistant Commissioner,
H.R and C.E., Department,
Karur.

3. D.Radhinavelpandian
Assistant Commissioner,
HR and CE Department,
Karur.

3.P.Subramanian
(R3 is impleaded vide court order dated 18.02.2016
in M.P(MD)No.3 of 2015) : Respondents in W.P.(MD) No.22566 of 2015

Prayer in W.P.(MD) No.18970 of 2015 : This Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the <https://hcmis.gov.in/hcmis/records> passed by the second respondent in Na.Ka.No.2782/2015/A1, dated 29.09.2015 and quash the same and consequently issue a direction to restrain the respondents from in



any manner interfering with the management of Arulmigu Mariamman Thirukovil by the petitioner.

Prayer in W.P. (MD) No.22566 of 2015 : This Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorari to call for the records relating to the impugned order passed by the second respondent in Se.Mu.Na.Ka.No.79/2012/A1 dated 13.06.2013 and quash the same.

In W.P. (MD) No.18970 of 2015

For Petitioner	: Mr.G.R.Swaminathan for Mr.J.C.Rathinavelpandian
For Respondents	:Mr.M.Alagadevan S.G.P. for R1 and R2 Mr.G.Prabhu Rajadurai for Mr.K.Balasubramani (for R3)

In W.P. (MD) No.22566 of 2015

For Petitioner	: Mr.G.R.Swaminathan for Mr.J.C.Rathinavelpandian
For Respondents	:Mr.M.Alagadevan S.G.P. for R1 and R2 Mr.G.Prabhu Rajadurai for Mr.K.Balasubramani (for R4) No appearance for R3

COMMON ORDER

The writ petition in W.P.(MD) No.18970 of 2015 has been filed by the petitioner challenging the impugned order passed by the second respondent in Na.Ka.No.2782/2015/A1, dated 29.09.2015 wherein, an order has been passed to secure the old Hundial and place a Hundial with proper seal. The petitioner has also sought for a consequential direction restraining the respondents from in any manner interfering with the management of Arulmigu Mariamman Thirukovil by the petitioner.

2.The writ petition in W.P.(MD) No.22566 of 2015 has been filed challenging the impugned order passed by the second respondent in Se.Mu.Na.Ka.No.79/2012/A1 dated 13.06.2013.

3.According to the petitioner, he is the Hereditary Trustee of Arulmigu Mariamman Thirukovil, Nanaparappu, Punjai Pugalur South Village, Manmangalam Taluk, Karur District. According to him, the said temple was constructed by his forefathers and they were in administration of the temple from time immemorial. According to him, some community members who are inimical to the interest of the petitioner, had started disturbing the function of the petitioner as hereditary trustee of the said temple. There was a feud between the petitioner and one Kongu Vellala Gounder Community which led to convening of a peace committee meeting for



the smooth running of the temple administration. A suit was also filed before the District Munsif Court, Karur, for injunction. According to the petitioner, at the instigation of some vested interest, the second respondent passed an order on 13.06.2013 appointing a Fit Person in the place of the petitioner for administration of the temple. During the pendency of the writ petition, one P.Subramanian was impleaded as fourth respondent.

4. Heard both sides.

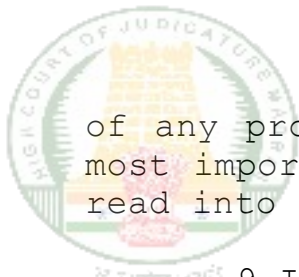
5. The learned counsel appearing for the petitioner would submit that the impugned order passed by the second respondent dated 13.06.2013 is vitiated on the ground that no notice was issued to the petitioner. He would only urge this Court that the writ petition has to be considered only on that aspect alone and he would not urge other grounds raised in the writ petitions for the present.

6. The learned counsel for the official respondents is not in a position to deny the said submission. However, the counsel for the impleaded respondent, namely, P.Subramanian, would strongly submit that no notice is required to be sent since the very fact of the petitioner claiming himself to be the hereditary trustee is questionable. According to the counsel appearing for the official respondents, the scheme of the H.R and C.E., Act does not envisage such a notice to be issued to a person, who has no connection whatsoever with the temple administration..

7. Per contra, the learned counsel appearing for the petitioner would draw this Court's attention to the minutes of the peace committee meeting, in which, the petitioner has been described as a hereditary trustee.

8. Without going into the factum of whether the petitioner is a hereditary trustee or not and without going into the other disputes as between the respondents and the petitioner, this Court is of the view that the non issue of notice to the petitioner before the appointment of Fit Person under the impugned proceedings dated 13.06.2013 cannot be sustained in law, as being violative of principles of natural justice. Even though strong objections were raised by the counsel appearing for the impleaded respondent and also the official respondents as to the submission made by the learned counsel for the petitioner, this Court without going to the realm of factual dispute as between and parties and without expressing any opinion on the claims of the petitioner as well as the impleaded respondents., the impugned order dated 13.06.2013 of the second respondent is set aside on the limited ground that no notice was issued to the petitioner.

<https://hcdvices.courtservice.org> To mention that whether there is any provision for issuance of notice in the present facts and circumstances of the case, this Court is conscious of the fact that even in the absence



of any provision, principles of natural justice being one of the most important principle of administrative law, the same should be read into every statute.

9. In such view of the matter, the impugned order dated 13.06.2013 is set aside and W.P(MD)No.22566 of 2015 is allowed and the second respondent is directed to issue notice to the petitioner and pass fresh orders, after considering the submission of all the parties concerned. This exercise shall be done by the official respondents within a period of four weeks from the date of receipt of a copy of this order.

10. In view of the order passed in W.P(MD)No.22566 of 2015, the order dated 29.09.2015 impugned in W.P(MD)No.18970 of 2015 is also set aside and W.P(MD)No.18970 of 2015 is disposed of. It is made clear that this Court is not expressing any view on the claim made by the parties. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Joint Commissioner,
H.R and C.E., Department,
Trichy - 16.
2. The Assistant Commissioner,
H.R and C.E., Department, Karur.

+2cc to M/S.J.C.RATHNAVEL PANDIAN, Advocate SR.No.54938,54939
+1cc to M/S.K.BALA SUBRAMANI, Advocate SR.No.55002

Common Order
W.P. (MD) Nos.18970 and 22566 of 2015
and
M.P (MD) Nos.1, 1, 2 and 2 of 2015
28.04.2017

JM/SV MMS/SAR 4/03.05.2017/4P/6C