



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.08.2017

CORAM:

WEB COPY

**THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR**

**W.A. (MD) No.1118 of 2017
and
C.M.P. (MD) No.7672 of 2017**

V.Navaneetha Krishnan

: Appellant

Vs.

1.The State of Tamil Nadu,
Rep. by the Commissioner,
HR & CE Department,
Nungabakkam,
Chennai - 600 034.

2.The Assistant Commissioner,
HR & CE, Rock Fort,
Trichy - 620 002.

3.The Joint Commissioner,
HR & CE, Rock Fort,
Trichy - 620 002.

4.R.Ramabadran

5.Srimad Andavan Poundarikapuram
Rep.by its Srikaryanm
Trichy-620 006.

6.The Commissioner of Police,
Trichy City, Trichy.

7.The Inspector of Police,
Srirangam Police Station,
Trichy.

8.R.Seshadri Iyengar,

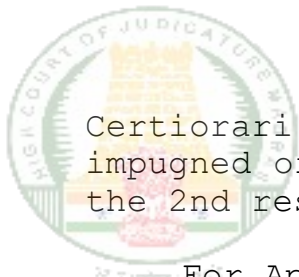
9.R.Sourirajan

: Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent Act, praying to set aside the order dated 31.07.2017 passed in W.P.(MD) No.16811 of 2016.

Prayer in WP(MD). 16811/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of



Certiorari calling for the records of the case relating to the impugned order in Se.Mu.Na.Ka.2246/16/A3, dated 24.06.2016 passed by the 2nd respondent and quash the same.

For Appellant

:Mr.T.Ramesh

For Respondents 1 to 3, 6&7

:Mr.V.R.Shanmugananthan

Special Government Pleader

For Respondent No.5

:Mr.K.Govindarajan

JUDGMENT

[Judgment of the Court was delivered by **M.M.SUNDRESH, J.**]

This appeal is directed against the order of the learned Single Judge, in which the following direction was issued.

"5.Under such circumstances, this Court is inclined to issue the following directions in order to give quietus to the issue:

i)The Commissioner, H.R. & C.E. Department, shall look into the matter on the basis of the representation dated 20.06.2016, given by Ramabadran / R4, who was the petitioner in W.P.(MD).No.11022 of 2016 and take a decision in one way or the other, within a period of six weeks from the date of receipt of a copy of this order.

(ii)The Commissioner, before passing an order on the representation, shall give an opportunity of hearing to all the parties related thereto and status quo to be maintained by the parties till then.

(iii)For the sake of brevity, it is clarified that the order to be passed by the Commissioner is only in accordance with the provisions of Section 60 of the Act, as enlightened by the second respondent in the impugned order."

2.The appellant, being the writ petitioner, challenged the order of the second respondent by which an order of status quo was granted, while requesting the first respondent to exercise the power under Section 60 of the HR & CE Act, 1959.

3.The learned counsel appearing for the appellant would submit that the question as to whether the head of the Mutt is appointed correctly or not and who is entitled to succeed is not available to the Commissioner, namely, the first Respondent under Section 60 of the HR & CE Act, 1959 [hereinafter referred to 'the Act'] and the representation was not given on the earlier occasion by the petitioner therein.

<https://hcservices.ecourts.gov.in/hcservices/>

4.To Buttress his submission, the learned counsel made reliance on the judgment of the Apex Court in the case of **Baba Charan Dass**



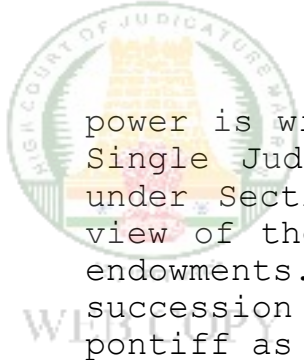
Udhasi Vs. Mahant Basant Das Babaji Chela Baba Laxmandas Udasi Sadhu
reported in (2000) 6 SCC.

5. The learned Special Government Pleader and the learned counsel appearing for the fifth respondent would submit that the person claiming to be a pontiff himself filed a suit against the fifth respondent alleging mis-management in C.S.No.602 of 2017 and obtained an order of injunction. This itself would show that according to the said pontiff who is sought to be exposed by the appellant, the administration was not proper. Even as admitted by the appellant, the trust deed indicates the role to be played by the fifth respondent. It is an admitted case that the fifth respondent has taken over the administration. The learned Single Judge has merely asked the first respondent to access the power under Section 60 of the Act, which is for the purpose of administration alone. Therefore, there is no basis in the writ appeal filed.

6. Admittedly, as per the trust deed, the fifth respondent has taken over the administration. There is also a dispute between two groups in so far as the succession to the office of the trust is concerned namely, the appointment of the pontiff. Therefore, Section 60 (1) is satisfied. Section 60 (1) states that the Assistant Commissioner may take steps and pass such order for the temporary custody and protection of the endowments. This step will have to end with a report to be submitted to the first respondent.

7. Now, such a report has been given. Pending the report, the impugned order has been passed asking the parties to maintain status quo with respect to appointment of the pontiff by the group belonging to the appellant. Now, the present writ petition and appeal has been filed not by the pontiff. On the other hand, he has filed a separate suit seeking different reliefs. The power available under Section 60 to the Assistant Commissioner, and then to the Commissioner is with respect to the arrangement for administration of the Mutt for endowments. Such a power has to be exercised by the Assistant Commissioner and thereafter by the Commissioner. The Assistant Commissioner has to pass appropriate orders on temporary basis since the custody and protection itself is a temporary measure. Therefore, the order of status quo granted by the Assistant Commissioner is also with respect to the temporary custody and protection of the endowment of the Mutt.

8. The fact that such a situation has arisen can be seen from the way in which even the pontiff who is stated to be selected has filed the suit alleging mis-management on the part of the fifth respondent. Therefore, the dispute with respect to the right of succession is also available and also dispute with respect to the management is also available. When these two factors are available, the Assistant commissioner has rightly exercised the power by maintaining status-quo. The satisfaction of the Assistant Commissioner in such a contingency is subjective. This is also a temporary measure as observed earlier. The ultimate exercise of the



power is with the Commissioner. That is the reason why the learned Single Judge directed the first respondent to exercise the power under Section 60 of the Act, which is to be exercised keeping in view of the arrangement for the administration of the Mutt and its endowments. Therefore, he is not concerned with the right of succession to the office of a trustee, which is in this case, a pontiff as such.

9. With the above observation, this Writ Appeal stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

To

1. The Commissioner,
State of Tamil Nadu,
HR & CE Department,
Nungabakkam, Chennai - 600 034.
2. The Assistant Commissioner,
HR & CE, Rock Fort, Trichy - 620 002.
3. The Joint Commissioner,
HR & CE, Rock Fort, Trichy - 620 002.
4. The Commissioner of Police,
Trichy City, Trichy.
5. The Inspector of Police,
Srirangam Police Station, Trichy.

+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. No. 73524

+1cc to Mr. T. RAMESH Advocate in SR. No. 73029

MR/TSG

JS/SV.MMR/SAR.1/21.09.2017/4P-8C

W.A. (MD) No. 1118 of 2017

18.08.2017