

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.11652 of 2016

and

W.M.P.No.10058 of 2016

- 1.T.Rangaraj
- 2.M.Sundaramurthy
- 3.D.Subramanian
- 4.R.Balasubramanian
- 5.D.Chandrasekaran

All the petitioners are residing at
Kidathalaivan Palayam Village,
Thillaiyadi Post, Tharangambadi Taluk,
Nagapattinam District.

...Petitioners

Versus

- 1.P.Sundaramurthy
- 2.The Commissioner,
H.R. & C.E. Department,
Chennai - 600 034.

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records of the order passed in A.P.No.4/2014 D2 dated 16.09.2015 by the Commissioner HR & CE Board at Chennai, the second respondent herein and quash the same.

For Petitioners : M/s.Kanimozhi mathi

For Respondents : Mr.K.Raja for R1
Mr.M.Maharaja, Spl GP(HR & CE) for R2

ORDER

The order passed by the Commissioner (HR & CE), in A.P.No.4 of 2014, D2 dated 16.09.2015 is under challenge in this writ petition.

2.The learned counsel appearing on behalf of the writ

petitioners state that the villagers' have reconstructed the Temple in the Village and the Temple owns 3 acres of land, and from and out of the earnings, the Temple expenditures are met out.

3.The grievances of the writ petitioners are that the Commissioner had passed an Ex-parte order despite the fact that the contributions and the facts were taken on record by the Commissioner in his order. The Commissioner in his order dated 16.09.2015 enumerates that the Joint Commissioner allowed the Original Application No.58 of 2008 and declared the respondent therein as Hereditary Trustee of the above Temple. The Temple was built more than 100 years ago. The said Temple owned 3 acres of land. From the income derived from the property, the Temple administration was looked after by villagers'. The Management of the Temple vested with non-hereditary trustees appointed till 1966. Thereafter, the Temple was damaged and its several parts ruined. 40 families of Vanniyars decided to reconstruct the Temple and made liberal contribution in the year 2008. The respondents in the Appeal, without the knowledge of the villagers' have filed O.A.No.5 of 2008, before the Joint Commissioner, Mayiladuthurai and by examining witnesses outside the village, obtained order in his favour. The Joint Commissioner failed to entertain the representations made by the villagers' during the pendency of the Original Application.

4.Though such an observation is made by the Commissioner on account of non appearance on the part of the appellants as well as their learned counsels, the writ petitioners and the villagers' were not heard properly. When it is brought to the notice of the Commissioner that the villagers' of that village had contributed for the development of the Temple and they are maintaining the Temple by offering donations, then all those parties are to be construed as interested parties and they are to be heard before passing final orders. The villagers' are the Worshipers of the Temple and they are contributing their donations for the welfare of the Temple.

5.This being the factum of the case, the Commissioner is bound to hear all the parties before taking a decision. In this view of the matter, the writ petition deserves to be considered. Accordingly, the impugned order passed by the second respondent / The Commissioner, in A.P.No.4 of 2014 D2 dated 16.09.2015 is quashed and the matter is remanded back to the Commissioner for re-adjudication of A.P.No.4 of 2014 D2, by affording reasonable opportunity to all the parties concerned and pass orders on merits and in accordance with law within a period of four months from the date of receipt of a copy of this order. The writ petitioner shall avail of this opportunity and appear before the Commissioner to submit their statements in

respect of their grievances.

6. Accordingly, the writ petition stands allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-IX)

//True copy//

Sub Assistant Registrar

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To

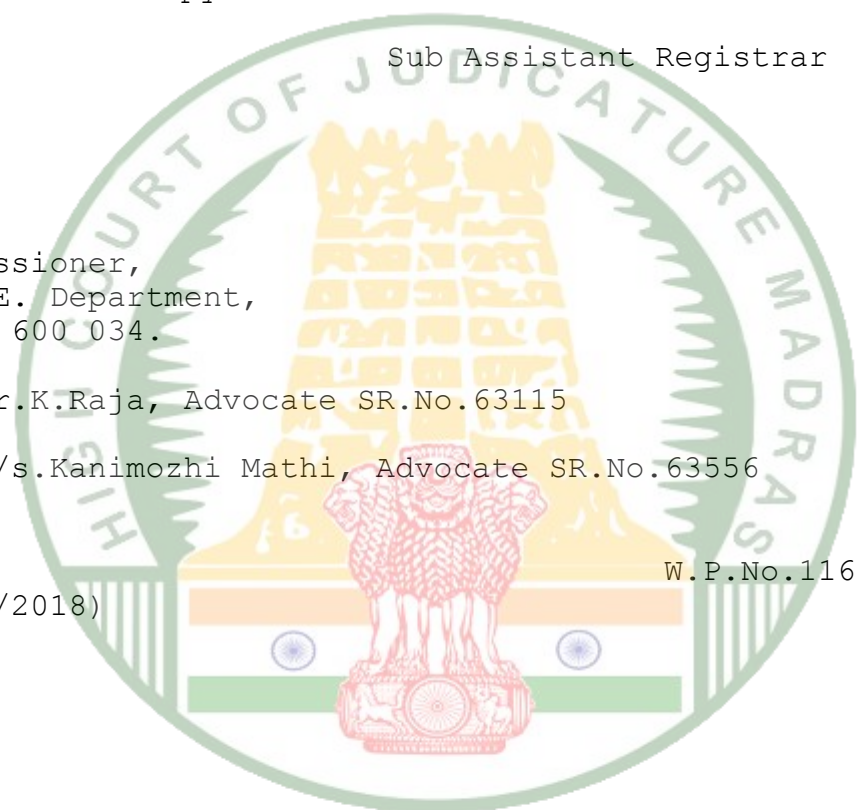
The Commissioner,
H.R. & C.E. Department,
Chennai - 600 034.

+1cc to Mr.K.Raja, Advocate SR.No.63115

+1cc to M/s.Kanimozhi Mathi, Advocate SR.No.63556

W.P.No.11652 of 2016

GMV (26/09/2018)

The seal of the High Court of Judicature Madras is a circular emblem. It features a central yellow temple gopuram (tower) with a red lion capital on top. Below the lion capital is the Ashoka Lion Capital. The entire emblem is set against a background of the Indian national flag's saffron, white, and green horizontal stripes. The words "HIGH COURT OF JUDICATURE MADRAS" are written in a circular border around the emblem. Below the emblem, the Sanskrit motto "सत्यमेव जयते" (Satyameva Jayate) is inscribed in Devanagari script.

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