

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2018

CORAM :

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P. No.27545 of 2008 & M.P.No.1 of 2008

M. Sempulingam

...Petitioner

.Vs.

1. The Assistant Commissioner,
Hindu Religious and Charitable
Endowments Board,
Kottai Mariamman Koil Street,
Salem - 1

2. The Inspector,
Hindu Religious and Charitable
Endowments Board,
Thillai Vinayagar Kovil,
Sangakiri, Salem District.

...Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari after calling for the concerned records relating to the Order No.Se.Mu. Na.Ka. No.3724/2000/E2 dated 07.10.2008 passed by the 1st respondent and quash the same.

For Petitioner : Mr.M.R.Jothi manian

For Respondent : Mr. M. Maharaja
Special Government Pleader

ORDER

The petitioner has filed this writ petition to issue a Writ of Certiorari after calling for the concerned records relating to the Order No.Se.Mu. Na.Ka. No.3724/2000/E2 dated 07.10.2008 passed by the 1st respondent.

2. Heard the learned counsel for the petitioner and the Special Government Pleader for the respondent.

3. The petitioner submits that he is one of the

Hereditary Managing Trustees of Morur East Arul Migu Mariamman Temple, Chettipatti Village, Pappankadu, Sangagiri Taluk, Salem District. The contention of the petitioner is that the said temple is situated in survey no. 676/03 (New Sub division no. 859/ 15) Sangagiri Taluk, Salem District. The said temple is about 200 years old having 2.28 acres of land and established by our ancestors to worship the god by the village people.

4. The learned counsel for the petitioner further submits that the temple is not covered under the provisions of Hindu Religious and Charitable Endowment Act, 1959 and leased out to third parties from time to time and the amount received as lease amount has been used for the maintenance work of the temple. The lease amount of Rs.1,000/- was not sufficient to meet out the expenses hence, in the year 2000, the respondent requested the hereditary trustee of the temple to sell the land for dairy farm, which is to be started adjacent to the temple land.

5. The petitioner, in order of maintain the temple had given consent to the first respondent to sell a portion of the temple's land to the dairy farm for valuable consideration, but the same was kept in abeyance by the respondents for the past 8 years and there was no response from the respondents.

6. The first respondent issued a show cause notice dated 18.09.2008 to the petitioner stating that the temple has been taken over by the HR & CE Department and why not a fit person be appointed for the said temple. In order to reply to the said show cause notice the petitioner requested the first respondent to furnish certain documents, but it was not done by the first respondent. On the other hand the first respondent passed the impugned order in Reference No.Se.Mu.Ka.No.3724/2000/E-2, dated 07.10.2008 regarding the formalities to be complied to take over the temple under the control of the HR & CE Department.

7. Thereafter, the petitioner has filed O.A.No.16 of 2008 under Section 63-B of the HR & CE Act, before the Joint Commissioner HR & CE for declaration that the petitioner and other hereditary trustees are the trustees of the above said temple. It is clear that the first respondent has not conducted any statutory enquiry Under Section 71 of the HR & CE Act. Hence, the impugned order passed by the first respondent in reference No.Se.Mu.Na.Ka.3724/2000/E-2 dated 07.10.2008 is liable to be quashed.

8. The learned counsel for the petitioner further submits that the second respondent has attempted to sell the Periya Pachaiyamma and Manathasami temple, Sangagiri, where the petitioner is the hereditary trustee, to the SIDCO. Since the

petitioner objected to sell the temple land to the SIDCO, the respondent removed me as a hereditary trustee. Hence the petitioner challenged the same by way of filing W.P.No.24942 of 2008 and the same was admitted and interim stay has also been granted by this Court. Therefore, the respondent has chosen to take over the above said temples with a malafide intention and passed the impugned order. Aggrieved by the said impugned order the petitioner has filed this writ petition.

9. The learned Special Government Pleader would submit that the O.A. is pending before the Joint Commissioner, HR & CE. Therefore, the learned special Government Pleader submits that the first respondent may be directed to verify whether the petitioner has got any right to act as a hereditary trustee or not and then pass a final order.

10. In view of the above submission of the learned special Government pleader, this Court is inclined to dispose of this writ petition with a direction to the first respondent to enquire into the issue that whether the petitioner has got any right to act as a hereditary trustee and to pass final order within a period of two months from the date of receipt of a copy of this order. Both the parties are at liberty to produce all the documents relating to this issue before the first respondent. Status Quo shall be maintained by either side till then. Consequently, connected miscellaneous petition is closed. No Costs.

Sd/-
Assistant Registrar

//True copy//

सत्यमेव जयते
Sub Assistant Registrar

smn

To.

1. The Assistant Commissioner,
Hindu Religious and Charitable
Endowments Board,
Kottai Mariamman Koil Street,
Salem - 1

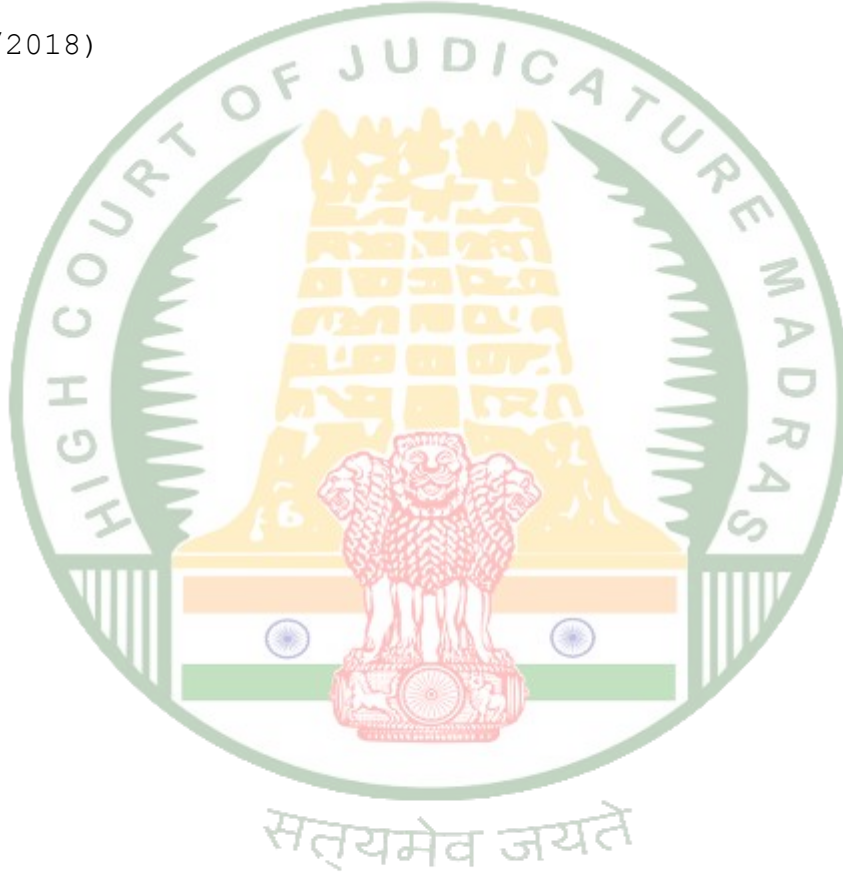
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2. The Inspector,
Hindu Religious and Charitable
Endowments Board,
Thillai Vinayagar Kovil,
Sangakiri, Salem District.

+1cc to Government Pleader SR.No.39683

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M.P.No. 1 of 2008

CP (CO)
GMY (27/12/2018)



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