

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :10.08.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

WP.Nos.36377 of 2016 & 26337 of 2017 and WMP.Nos.31316 & 31317/2016, 27994 & 27995/2017 and 20328/2018,

Thavathiru Maruthachala Adikal,
Madathipathi
Arulmigu Dhakshinamoorthy Mutt,
Kanthal, Ooty

..Petitioner in WP.Nos.36377 of 2016

Sri Dhakshinamoorthy Mutt,
Kanthal, Udhagamandalam,
The Nilgris District,
rep.by its Trustee, Sri Lakshmaiah @ Rex mani

..Petitioner in WP.Nos.26337 of 2017

VS

1.The Commissioner,
Hindu Religious and Charitable,
Endowment Department,
Uthamar Gandhi Salai,
Nungambakkam,
Chennai-600 034.

2.Joint Commissioner,
Hindu Religious and Charitable,
Endowment Department,
Dr.Balasundaram Road,
Coimbatore.

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3. Assistant Commissioner,
Hindu Religious and Charitable,
Endowment Department,
Dr. Balasundaram Road,
Coimbatore.

4. Inspector of Police,
G-1, Police Station, Ooty,
The Nilgris.

5. Branch Manager,
Nilgris District Central Co-operative Bank,
Market Branch, Ooty.

6. Rangasamy
Claiming to be President Alaya Seva Sangam,
Kanthai, Ooty.

.. Respondents in WP.Nos.36377 of 2016

1. The Commissioner,
Hindu Religious and Charitable,
Endowment Department,
Mahatma Gandhi Salai,
Nungambakkam,
Chennai-600 034.

2. Joint Commissioner,
Hindu Religious and Charitable,
Endowment Department,
Coimbatore.

3. Assistant Commissioner,
Hindu Religious and Charitable,
Endowment Department,
Coimbatore.

4. The Superintendent of Police,
Udhagamandalam, The Nilgris District.

5. The Deputy Superintendent of Police,
Udhagamandalam,
The Nilgris District.

6. The Inspector of Police,
G1 Police Station,

Thirukanthal,
Udhagamandalam,
The Nilgris District.

7.The Managing Director,
Nilgris District Central Cooperative Bank Ltd.,
Charring Cross,
Udhagamandalam,
The Nilgris District.

8.Thav Thiru Maruthachala Adigalar,
Ilayapattam, Perur Adheenam,
Perur, Coimbatore.

...Respondents in WP.Nos.26337 of 2017

Prayer in WP.Nos.36377 of 2016: Writ petition filed under Article 226 of the Constitution of India petitioner prayed that this Court to issue a writ of Certiorarified Mandamus calling for the records relating to the order of the 5th respondent dated 21.01.2016 and quash the same and direct the respondents 1 to 4 to open the Saraswathi Ashramam of the Arulmighu Dhakshinamoorthy Mutt enabling the petitioner to perform the petitioner's duties of Madathipathi of the Arulmigu Dhakshinamoorthy Mutt, Kanthal, Ooty.

Prayer in WP.Nos.26337 of 2017: Writ petition filed under Article 226 of the Constitution of India petitioner prayed that this Court to issue a writ of Certiorari calling for the records relating to the proceedings of the 2nd respondent herein bearing Reference under Na.Ka.No.1651/2016-2/A3 dated 20.09.2017, and quash the same.

For Petitioner in WP.No.36377/2016:

Mr.R.Gandhi,
Senior Counsel for Mr.R.G.Narendhiran

For Petitioner in WP.No.26337/2017:

Mr.A.R.L.Sundaresan,
Senior Counsel
for Ms.A.L.Gandhimathi

For Respondents in WP.Nos.36377 of 2016 :

MR.M.Maharaja
Special Government Pleader (HR & CE)
for R1 to R3

Mr.R.S.Selvan, Government Advocate
for R4

Mr.L.P.Shanmugasundaram for R5

Mrs.R.Anitha for R6

For Respondents in WP.Nos.26337 of 2017:

MR.M.Maharaja
Special Government Pleader (HR & CE)
for R1 to R3

Mr.R.S.Selvan, Government Advocate
for R4 to R6

Mr.R.Gandhi, Senior Counsel for R8

Mr.L.P.Shanmugasundaram for R7

COMMON ORDER

The dispute arises in respect of the administration of Sri Dhakshinamurthy Mutt Kandal, Udhagamandalam. The facts in nutshell to be considered for the purpose of deciding this case is that the Trust is running a Temple and having other charitable activities, pursuant to the Trust Deed registered in the year 1917. Pursuant to the request made by the Trustees, the 8th respondent in WP.Nos.26337 of 2017 was appointed as Madathipathy during the year 2003-04 and accordingly, the 8th respondent acted as Madathipathy of the Trust for quite some time. However, there were disputes between the Trustees and the 8th respondent in respect of running the administration of the Trust and accordingly controversies arose and the disputes developed and the Trustees started accusing each other and finally, the Joint Commissioner, Hindu Religious and Charitable Endowment Department passed an order in

proceedings dated 20.09.2017 and the said order is under challenge in this writ petition.

2. The learned Senior Counsel appearing on behalf of the writ petitioner states that the 8th respondent had already been removed from the position of Madathipathy. However, another person was appointed as new Madathipathy and he assumed charge on 14.06.2017. However, the learned Senior Counsel appearing for the 8th respondent denied the submission by stating that the 8th respondent is still continuing as Madathipathy of the petitioner's Mutt.

3. May that it be, all these complex nature of facts and circumstances can never be adjudicated in the writ proceedings under Article 226 of the Constitution of India. When such complex facts arise, it is preferable that the parties should prefer the appellate remedy before the competent Forum, which inturn can record the evidences from the respective parties and peruse the documents and materials and take a decision considering all the prevailing circumstances and materials available on record. In view of the fact that the respective parties are raising complex facts and circumstances in the case in relation to their position as Madathipathy as per the Trust Deed, this Court is of an opinion that the writ petitioners as well as the 8th respondent in WP.No.26337/2017 have to approach the appellate authority namely the Commissioner, HR & CE Department for complete adjudication of facts and other legal grounds raised in this regard in the present writ petition. The respective parties are at liberty to raise all legal grounds including the jurisdiction points and other maintainability grounds and all other legal grounds. The factual situation prevailing in the Mutt also to be taken note of by the Commissioner by recording the submission from the concerned persons and by adducing evidences if necessary. Thus, all the parties are at liberty to prefer an appeal before the Commissioner, HR & CE at Chennai for the purpose of adjudicating the issues including the points of jurisdiction. It is made clear that till the appeal is disposed of by the Commissioner, HR & CE Department, the respective parties are directed to maintain Status Quo as on today and after passing of the orders, the same shall be implemented thereafter.

4. In this view of the matter, the writ petitions stand disposed of with the above directions. No costs.

Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

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To

- 1.The Commissioner,
Hindu Religious and Charitable,
Endowment Department,
Uthamar Gandhi Salai,
Nungambakkam, Chennai-600 034.
- 2.Joint Commissioner,
Hindu Religious and Charitable,
Endowment Department,
Dr.Balasundaram Road, Coimbatore.
- 3.Assistant Commissioner,
Hindu Religious and Charitable,
Endowment Department,
Dr.Balasundaram Road, Coimbatore.
- 4.Inspector of Police,
G-1, Police Station, Ooty,
The Nilgris.
- 5.Branch Manager,
Nilgris District Central Co-operative Bank,
Market Branch, Ooty.
- 6.The Superintendent of Police,
Udhagamandalam,
The Nilgris District.
- 7.The Deputy Superintendent of Police,
Udhagamandalam,
The Nilgris District.

8.The Managing Director,
Nilgris District Central Cooperative Bank Ltd.,
Charring Cross,
Udhagamandalam,
The Nilgris District.

+2cc to Special Government Pleader (HR & CE)SR.No.55463, 55464

+1cc to Mr.L.P. Shanmugasundaram, Advocate SR.No.55825

+1cc to Mr.R. Anitha*, Advocate SR.No.55536

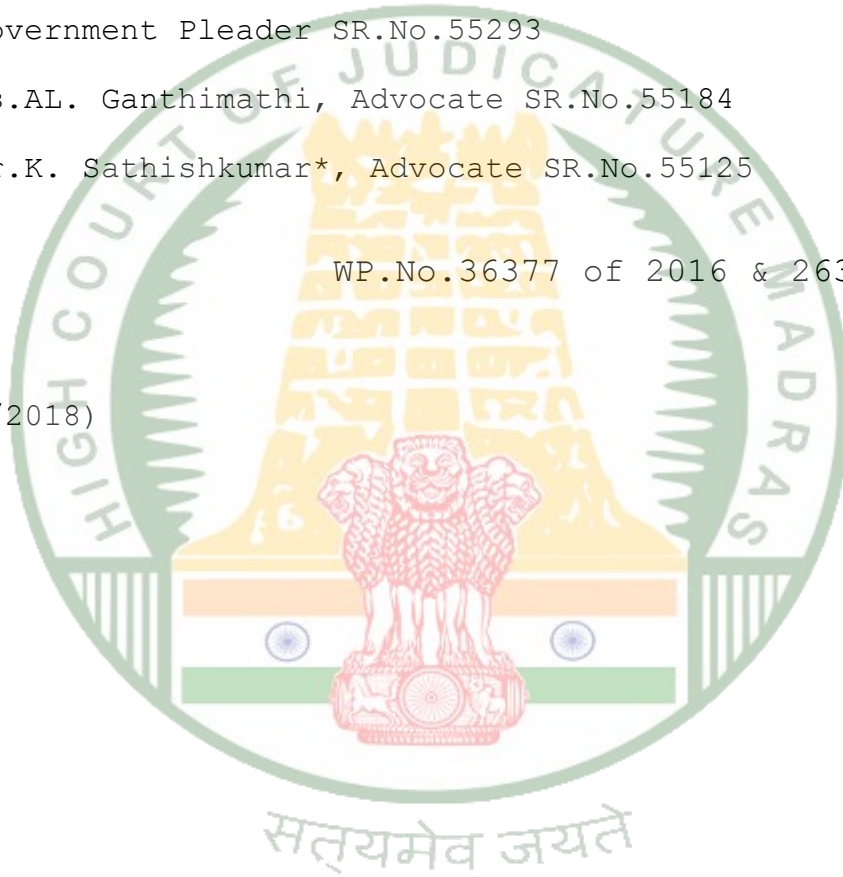
+1cc to Government Pleader SR.No.55293

+1cc to Ms.AL. Ganthimathi, Advocate SR.No.55184

+1cc to Mr.K. Sathishkumar*, Advocate SR.No.55125

WP.No.36377 of 2016 & 26337 of 2017

GMV (05/09/2018)



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