



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.A. (MD)No.216 of 2018

M.Vairavalli Ammal

.. Appellant/Petitioner

Vs.

1.The Joint Commissioner,
Hindu Religious Charitable Endowment,
Srirangam,
Trichy.

2.The Executive Officer,
A/m.Vekkaliyamman Thirukoil,
Woraiyur,
Trichy - 6.

.. Respondents/Respondents

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent Act, to set aside the order dated 03.03.2016 in W.P(MD)No.11520 of 2008 on the file of this Court.

Prayer in WP(MD). 11520/ 2008 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records realting to the impugned order of the second respondent in Na.ka.NO. 73/1400/Aa2 dated 17/04/2004 and quash the same and consequently direct the respondents to recognize the petitioner as hereditary poojari of the 2nd respondent temple.

For Appellant	: Mr.V.Singan
For R-1	: Mr.M.Murugan, Government Advocate
For R-2	: Mr.K.Govindarajan

JUDGMENT

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

By consent, the main Writ Appeal itself, is taken up for final disposal.

2. The Writ Petitioner is the appellant herein and she has submitted an application claiming 'Hereditary Poojariship' in respect of the second respondent Temple and vide impugned



communication dated 17.04.2004, the second respondent has rejected the said application/representation and hence, she made a challenge, by filing the writ petition and in which, notices were ordered and the second respondent/Temple has also filed the counter-affidavit.

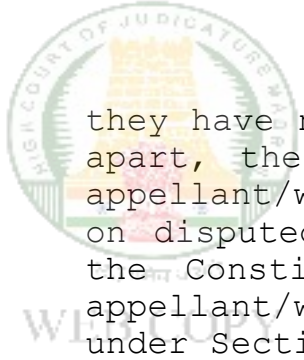
3. The learned Single Judge having taken note of the rival submissions and the materials, held that under Section 55(2) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (in short HR & CE Act), there is a bar and therefore, the claim of the appellant/writ petitioner, cannot be entertained and therefore, dismissed the Writ Petition vide impugned order dated 03.03.2016 and challenging the same, the appellant/writ petitioner has filed this Writ Appeal.

4. The learned counsel appearing for the appellant has drawn the attention of this Court to Section 55(2) of the HR & CE Act and there is no express bar for claiming 'Hereditary Poojariship' and also the judgment dated 21.09.1979 in S.A.No.1344 of 1976 and would contend that the 'Hereditary Poojariship' of one Maruthanayakam Pillai, who is the father of the appellant/writ petitioner, has been recognised in the said judgment and the appellant/writ petitioner through one Muthiah Pillai, who is one of the six Agnates, is claiming 'Hereditary Poojariship' and therefore, her claim ought to have been considered, adjudicated and disposed of, on merits and hence, prays for interference.

5. This Court heard the submissions of Mr.M.Murugan, learned Government Advocate appearing for the first respondent and Mr.K.Govindarajan, learned counsel appearing for the second respondent and he would submit that the appellant/writ petitioner is having effective alternate remedy under Section 55(4) of the HR & CE Act and she has not produced any clear of tenable material to show that she is one of the legal heirs of the said Muthiah Pillai, who is one of the six Agnates and admittedly, one of her brother is performing pooja in the subject temple, as per the direction from his father, from 07.03.1987 and would further contend that the other two brothers of the appellant/writ petitioner, are also employed and without arraying them as parties, the appellant/writ petitioner, is claiming 'Hereditary Poojariship' and even otherwise, there is a bar under Section 55(2) of the HR & CE Act, for claiming 'Hereditary Poojariship' and prays for dismissal of the Writ Appeal.

6. This Court heard the rival submissions and perused the materials placed before it.

7. The claim of the appellant/writ petitioner is through one of the Agnates, namely, Muthiah Pillai and admittedly, she is a daughter of Marudhanayagam Pillai and apart from her, three sons were born to him namely, Markandan, Kaliappan and Sait @ Sellian and out of them, Markandan and Kaliappan are working as approved employees and insofar as Sait @ Sellian is concerned, he is performing pooja as per the direction of his father and admittedly,



they have not been arrayed as parties in the writ petition and that apart, the points urged by the learned counsel appearing for the appellant/writ petitioner revolve around adjudication of proceedings on disputed questions of fact and this Court under Article 226 of the Constitution of India, cannot adjudicate the same and the appellant/writ petitioner is also having effective alternate remedy under Section 55(4) of the HR & CE Act.

8. In the result, the Writ Appeal is partly allowed and the impugned order dated 03.03.2016 passed in W.P(MD)No.11520 of 2008, is set aside insofar as the right of the appellant/writ petitioner to file an appeal under Section 55(4) of the HR & CE Act is concerned and the appellant/Writ Petitioner, is granted liberty to file an appeal before the jurisdictional Deputy Commissioner along with relevant and authenticated documents, within a period of four weeks from the date of receipt of a copy of this judgment and the said official on receipt of the same, may entertain the said appeal, if the papers are otherwise in order and without putting the issue of limitation and thereafter, putting the concerned persons on notice, shall give a disposal in accordance with law, within a further time limit of twelve weeks thereafter and communicate the decision taken, to the appellant/writ petitioner as well as to the persons concerned. No Costs.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To
The Joint Commissioner,
Hindu Religious Charitable Endowment,
Srirangam,
Trichy.

+1CC to the Special Government Pleader SR.No.50187

W.A. (MD) No.216 of 2018
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