



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.05.2018

CORAM:

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THE HONOURABLE MR.JUSTICE M.V.MURALIDARANW.P. (MD) No.11575 of 2018 and
W.M.P. (MD) Nos.10536 & 10537 of 20181.Rajasekaran
2.S.Prabhakaran
3.S.Jegan

... Petitioners

-vs-

1.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Tirunelveli.2.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Nagercoil, Agasteeswaram Taluk,
Kanyakumari District.3.The Fit Person,
Arulmigu Narayanaswamy Temple,
South Thamaraikulam Village,
Agasteeswaram Taluk,
Kanyakumari District.

4.K.Chelladurai

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for records relating to the impugned order dated 09.04.2018 passed in I.A.No.1 of 2017 in R.P.No.1 of 2008 by the 1st respondent and quash the same and consequently, direct him to implead the petitioners as parties in the revision petition in R.P.No.1 of 2008.

For Petitioners : Mr.T.R.Jeyapalam
For R1 & R2 : Mr.VR.Shanmuganathan,
Spl. Govt. Pleader

O R D E R

<https://hcservices.ecourts.gov.in/hcservices/> In this writ petition has been filed, seeking to quash the impugned order dated 09.04.2018 passed in I.A.No.1 of 2017 in R.P.No.1 of 2008 by the 1st respondent, in which, the request of



the petitioners to implead them as parties to the revision petition in R.P.No.1 of 2008 was declined and the petitioners also sought a direction to that effect.

2. Mr.V.R.Shanmuganathan, learned Special Government Pleader, takes notice for the respondents. Notice to R3 & R4 is dispensed with in view of the nature of disposal of this case. By consent, the writ petition is taken up for final hearing at the admission stage itself.

3. It is the case of the petitioners that the 2nd respondent appointed the 3rd respondent as Fit Person for the management of the Sreeman Narayanaswamy Pathi Temple by order dated 28.02.2008 and the petitioners, who are hereditary poojariship in the Temple, filed O.S.No.39 of 2004 before Sub Court, Nagercoil for a decree of permanent injunction, restraining villagers from interfering with their right of poojariship. It is the further case of the petitioners that now the Temple is under the control of HR&CE Department and the 4th respondent herein had filed a revision petition in R.P.No.1 of 2008 before the 1st respondent, challenging the appointment of the 3rd respondent as Fit Person and in addition, he also filed W.P. (MD) No.17692 of 2007 seeking for speedy disposal of the writ petition, in which, the 1st respondent was directed to dispose of the revision petition within eight weeks.

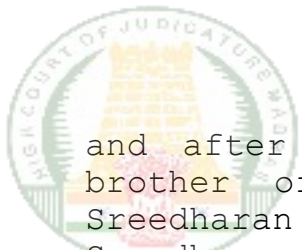
3.1. It is submitted that since the petitioners were not arrayed as parties in the revision petition filed by the 4th respondent, they filed I.A.No.1 of 2017 before the 1st respondent for impleading them as parties in the revision and the 1st respondent has mechanically refused the request of the petitioners and dismissed the same. Aggrieved by the same, the petitioners are before this Court, seeking to quash the same.

4. Per contra, learned Special Government Pleader appearing for the respondents 1 & 2 would submit that the revision petition was filed by the 4th respondent, questioning the appointment of 3rd respondent as Fit Person by the 2nd respondent and the subject matter revolves around between the 2nd respondent and the 4th respondent and the petitioners have no say in the revision petition. Moreover, the application for impleadment was filed only to drag on the proceedings and therefore, the order of the 1st respondent does not call for any interference by this Court.

5. Heard the learned counsel for the petitioners and the learned Special Government Pleader appearing for the respondents 1 & 2. This Court also perused the material documents available on record.

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

6. It is the stand of the petitioners that one Soundara Raja Pandian was earlier conferred with hereditary poojariship



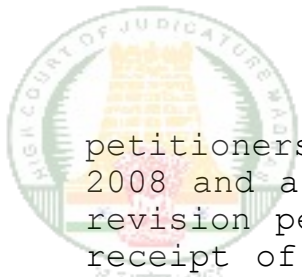
and after his demise, the petitioners 1 & 2 along with the brother of the deceased Soundaraja Raja Pandian, by name, Sreedharan were the hereditary poojaris. Subsequently, the said Sreedharan also died and in his place, the son of Sreedharan was performing poojariship along with the petitioners 1 & 2. It is not in dispute that the petitioners filed O.S.No.39 of 2004 before the Second Additional Subordinate Court, Nagercoil for permanent injunction and the suit was decreed on 22.08.2006 in their favour and some third parties filed yet another suit in O.S.No.370 of 2008 on the file of the II Additional Subordinate Court, Nagercoil for declaration that the petitioners are not entitled to the status of Poojariship, against which, the petitioners filed an application in I.A.No.322 of 2008 for rejection of the plaint, which also ended in favour of the petitioners.

7. In the meanwhile, the 2nd respondent had unilaterally appointed the 3rd respondent and the same was questioned by the 4th respondent by way of filing R.P.No.1 of 2008 before the 1st respondent. Since the petitioners, who already obtained an order in suits, approached the 1st respondent to add them as parties to the revision petition, which was rejected by the 1st respondent. It is quite astonishing that the petitioners, despite obtaining favourable orders from the Civil Courts and having established their rights in the Poojaiship in the Temple, were purposely restrained by the 1st respondent in contesting the revision petition filed by the 4th respondent. The decision to be taken in the revision petition may have a bearing on their rights established through decree in the suits. Moreover, it is averred in the petition that some third parties at the instance of the 4th respondent filed O.S.No.370 of 2008 for removing them from the Poojariship. Therefore, it can be inferred that what the petitioners did not achieve in the suit, are they attempting to achieve indirectly by way of questioning the appointment of 3rd respondent, that too, without impleading the petitioners as parties to the revision. The 1st respondent, without considering all these aspects and without looking into the factual matrix, has simply dismissed the application filed by the petitioners for impleadment.

8. In fine, this Court is of the view that impleading the petitioners as parties in the revision petition will not in any way be prejudicial to the respondents and it will serve the interest of justice, if they are afforded an opportunity of hearing in the revision. Therefore, the order of the 1st respondent dated 09.04.2018 is liable to be set aside.

9. In the result,

- a) this writ petition is allowed and the order dated 09.04.2018 passed in I.A.No.1 of 2017 in R.P.No.1 of 2008 by the 1st respondent, is set aside;
- b) the 1st respondent is directed to implead the



petitioners as parties in the revision petition in R.P.No.1 of 2008 and after hearing all the parties concerned, dispose of the revision petition within a period of six months from the date of receipt of a copy of this order (as the revision is of the year 2008).

WEB COPY No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To:

1.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Tirunelveli.

2.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Nagercoil, Agasteeswaram Taluk,
Kanyakumari District.

+ 1 CC TO Mr.T.R.JEYAPALAM, ADVOCATE IN SR No. 66454
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 66535

AR

TE/VR/SAR-2 : 05/07/2018 : 4P/5C

W.P (MD) No.11575 of 2018
31.05.2018