



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.09.2018

CORAM

THE HONOURABLE MR. JUSTICE V. PARTHIBAN

W.P. [MD] No. 16110 of 2018

and

W.M.P. [MD] No. 14354 & 14355 of 2018

Sugumaran : Petitioner

Vs.

1. The Commissioner,
Hindu Religious and Charitable Endowment Department,
Nungambakkam,
Chennai.

2. The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Madurai.

3. The Executive Officer / Fit Person,
Arulmighu Rajakaliamman Temple,
Thethupatti,
Dindigul.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records pertaining to the impugned order passed by the third respondent dated 31.05.2018 and quash the same as ultra vires.

For Petitioner : Mr.S.Madhavan

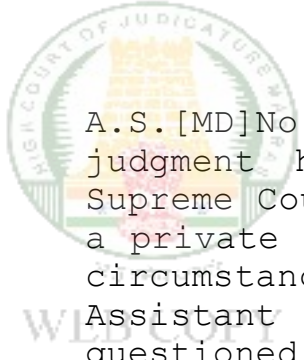
For Respondents 1&2 : Mr.C.M.Mari Chelliah Prabhu
Additional Government Pleader

For Respondent No.3 : Mr.Muthu Geethaiyan

O R D E R

What is challenged in this writ petition is the order passed by the third respondent dated 31.05.2018, in consequence of the earlier order passed by the Assistant Commissioner dated 28.12.1989, appointing the fit person at Arulmighu Rajakaliamman Temple, Thethupatti Village, Dindigul.

2.The said order passed in the year 1989 could not be implemented, since there was a litigation at the instance of the petitioner as to whether the temple in question was a public or a private temple. The issue was finally settled by this Court in



A.S.[MD]No.109 of 2016 vide judgment dated 13.06.2017. The judgment has also been confirmed subsequently by the Hon'ble Supreme Court. Therefore, the issue whether the subject temple is a private or public temple is no more res integra and in the said circumstances, the appointment of the third respondent by the Assistant Commissioner vide his order dated 28.12.1989 cannot be questioned on that ground. In any event, the present order issued by the third respondent is a consequential order in pursuance to the earlier order passed by the Assistant Commissioner dated 28.12.1989. The petitioner herein, under the guise of challenging the present order, is trying to re-agitate the earlier issue. As stated above, the character of the temple has been settled namely, the temple is a public temple and in such case, it is not open to the petitioner to re-agitate the same in the guise of challenging the order dated 31.05.2018.

3.At this, the learned Counsel for the petitioner would submit that there is an application pending before the authority concerned under Section 63(b) of the Hindu Religious and Charitable Endowments Act and the same has not been decided yet. In case, no decision has been passed in the application filed by the petitioner, it is always open to the petitioner to approach the authority concerned for early disposal of the application. But, it is certainly not open to the petitioner to stall the takeover of third respondent fit person and manage the affairs of the temple in pursuance of the orders passed by the Assistant Commissioner dated 28.12.1989. It is not open to the petitioner to challenge the consequential order directing to hand over the affairs of the temple to the third respondent.

4.In view of the above said facts, this Court is of the considered view that the writ petition as such is not maintainable and therefore, the same is dismissed. In regard to the issue, whether the petitioner is entitled to be appointed as hereditary trustee or not, it is for him to approach the authority concerned. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

1. The Commissioner,
Hindu Religious and Charitable Endowment Department,
Nungambakkam,



2. The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Madurai.

+1cc to Mr.M.Muthu Geethaiyan, Advocate Sr.No.86870

+1cc to Mr.S.Madhavan, Advocate Sr.No.87301

+1cc to Spl.Government Pleader Sr.No.87165

MR

VB/PM/SAR4/29.11.2018/3P/6C

ORDER MADE IN
W.P. [MD] No.16110 of 2018
26.09.2018