

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2019

CORAM:

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

W.P.NO.10740 OF 2010

AND

M.P.NOS.1 TO 3 OF 2010 & 1 OF 2011

K.Neelamega Bhattachariyar,
Archakar, Arulmighu Devanathaswamy Temple,
Thiruvandipuram,
1/78, Riverside Street,
Thiruvandipuram,
Cuddalore 607 401

.... Petitioner

Vs.

1. The Commissioner,
Hindu Religious and Charitable
Endowment Department,
Chennai 34.
2. The Joint Commissioner,
Hindu Religious and Charitable
Endowment Department,
No.792, Nehruji Street,
Villupuram.
3. The Executive Officer,
Arulmighu Devanathasamy Temple,
Thiruvandipuram,
Cuddalore 607 401
(R3 suomoto impleaded as per Court
order dated 14.03.2011 by VDPJ)

... Respondents

PRAYER :

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records of O.A.No.18 of 2008 pending on the file of Joint Commissioner for Hindu Religious and Charitable Endowment Department, Villupuram, the 2nd respondent herein and quash the same and forbear them not to act against the present scheme decreed in any way either by installing Hundials in petitioner's temple precincts or with regard to custody of jewellery of the deity or in any manner whatsoever.

For petitioner : Mr.D.Ravinchander

For Respondents : Mr.M.Maharaja,
Special Government Pleader,
for R1 & R2

: Mr.T.S.Baskaran,
for R3

O R D E R

This writ petition has been filed challenging the notice issued by the second respondent/Joint Commissioner under Section 64(5)(a) and (b) of the Tamilnadu H.R & C.E. Act 1959 (herein after called as "Act") for modifying the scheme in respect of placing the Hundial in Arulmighu Devanathaswami Thiruvendipuram, Cuddalore District.

2. The learned counsel for the petitioner submits that petitioner, who is the Sthanika-cum-Archakar of the above said temple, has earlier initiated various proceedings before this Court and the Hon'ble Supreme Court, to asserting his right, and based on the direction of the Hon'ble Supreme Court, he has filed an application under Section 63(e) of the Act, before the competent authority, namely, the second respondent to declare his hereditary right to act as Archaka and Sthanika of the temple. Now, the said application is pending with the Joint Commissioner and without disposing the same, the Joint Commissioner suo-motu initiated proceedings under Section 64(5) of the Act to modify the scheme, which will affect the petitioner. Hence, the present writ petition has been filed.

3. The learned counsel appearing for the respondents would submit that the impugned notice, is only a suo-motu proceedings initiated by the Joint Commissioner, Hindu Religious and Charitable Endowment Department to modify various clauses of the scheme, which are inconsistent with the Act and Section 118(2)(b)(i) of the Act as the provisions of the scheme are not in consonance with the Act, and the scheme should be modified so as to bring it in conformity with the provisions of the Act. The proceedings of the Joint Commissioner is only to modify the scheme and if the petitioner has any grievance in modifying the scheme, it is always open to him to approach the Joint Commissioner, and raise his objection, he cannot challenge the same, citing the pendency of the proceedings with the Joint Commissioner under Section 63(e) of the Act.

4. I have considered the submissions made by the learned counsel for the petitioner and the respondents and also perused the materials available on record.

5. As rightly contended by the learned counsel for the respondent, the proceedings initiated by the Joint Commissioner is only under Section 64(5) (a) and (b) of the Act to modify the scheme. If the petitioner has any grievance over the same, it is always open to him to raise his objection before the said authority, including the pendency of the proceedings under Section 63(e) of the Act . The petitioner cannot challenge the impugned notice at this stage. Hence, I find no merit in the writ petition. Hence, the writ petition is liable to be dismissed.

6. Accordingly, the writ petition is dismissed. However, considering the fact that an application in O.A.No.9 of 2016 under Section 63(e) of the Act filed by the petitioner is pending before the second respondent, the second respondent is directed to consider the said petition and pass suitable orders on merits and in accordance with law, after giving opportunity to the petitioner. Simultaneously, the second respondent is also directed to proceed with the enquiry pursuant to the impugned notice dated 13.04.2010 issued under Section 64(5) (a) and (b) of the Act. The petitioner is at liberty to appear before the Joint Commissioner and raise all his objections including the objections raised in this writ petition. The second respondent is directed to conclude the proceedings as expeditiously as possible. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

mrp

To

1. The Commissioner,
Hindu Religious and Charitable
Endowment Department,
Chennai 34.

2. The Joint Commissioner,
Hindu Religious and Charitable
Endowment Department,
No.792, Nehruji Street,
Villupuram.

3. The Executive Officer,
Arulmighu Devanathasamy Temple,
Thiruvandipuram,
Cuddalore 607 401

+1cc to Mr.D.Ravinchander, Advocate, S.R.No.83043

+1cc to Mr.T.S.Baskaran, Advocate, S.R.No.82944

+1cc to the Government Pleader, S.R.No.83259

W.P.No.10740 of 2010

JP (CO)
CS/29/11/2019



WEB COPY