

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.03.2019

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.14141 of 2016

and

W.M.P.Nos.12376 & 12377 of 2016

& W.M.P.No.3210 of 2018

R.Gunasekaran

.. Petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable Endowments,
Nungampakkam,
Chennai.

2.The Deputy Commissioner,
Hindu Religious and Charitable Endowments,
Salem - 1.

3.The Joint Commissioner,
Hindu Religious and Charitable Endowments,
Salem - 1.

4.Mrs.Vanaja

.. Respondents

PRAYER : Writ Petitions filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records in connection with the Original Petition No.35/1988 dated 14.12.1989 of the 2nd respondent and miscellaneous petition No.11/2013A1 dated 09.12.2013 of 3rd respondent and quash the same and consequently direct the respondents to declare that the above said temple belong to the petitioner.

For Petitioner : Mr.A.K.Balaji

For RR1 to 3 : Mr.M.Maharaja
Special Government Pleader

For R4 : Mr.R.Neelakantan

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O R D E R

The writ petition has been filed challenging the orders passed by the second respondent dated 14.12.1989 and the third respondent dated 09.12.2013 and direct the respondents to declare that Angalaamman Thirukoil belongs to the petitioner.

2. The petitioner claims to be the hereditary trustee of Angalaamman Thirukoil in Vilangamudi Village. According to the petitioner, his father was performing poojas and festivals in the said temple. The fourth respondent claims that her father was in possession of the temple and performing poojas and conducting festivals as the hereditary trustee. The father of the fourth respondent had already filed a petition in O.P.No.35 of 1988 under Section 63(b) of the Hindu Religious & Charitable Endowments Act (HR & CE Act), in which, the petitioner's father was a party. The petitioner's father also filed a petition in O.P.No.18 of 1989 for the same relief.

3. Both O.P.No.35/1988 filed by the fourth respondent's father as well as O.P.No.18/1989 filed by the petitioner's father were tried together and after due enquiry, an order was passed on 14.12.1989. In the the said order, after referring to the report of the Inspector and also considering the evidence and depositions of the parties, the Deputy Commissioner had come to the categorical conclusion that the fourth respondent's father Poongavanam is in administration of the temple and the said family has been administering for several generations. Hence, the fourth respondent's father was declared to be the hereditary trustee. The said order was not challenged by the petitioner herein. However, after the death of the said Poongavanam, his daughters had filed a petition before the Joint Commissioner, Hindu Religious and Charitable Endowments, Salem in M.P.No.11/2013 A1 dated 09.12.2013 seeking declaration that they should be appointed as hereditary trustees in the vacancy of their deceased father. In the said application, an enquiry was conducted and based on the earlier order dated 14.12.1989, the fourth respondent was declared as a person next in the line of succession as per Section 54(1) of the HR & CE Act and declared as hereditary trustee. The petitioner has now preferred this writ petition, challenging the order passed on 14.12.1989 and also the order passed on 09.12.2013.

4. Heard the learned counsel appearing on both sides.

5. When the order dated 14.12.1989 itself had declined the right of the petitioner therein, i.e., the petitioner's father and appointed fourth respondent's father as the hereditary trustee, the said order should have been put to challenge in

time. Subsequently, after the death of the fourth respondent's father, the daughters have filed for declaration, declaring themselves as hereditary trustees, in which, one of the daughters was appointed as hereditary trustee, who is the fourth respondent herein. Without challenging the earlier order in time, it is not open to the petitioner to challenge the subsequent order. Therefore, the petitioner has got no locus standi to file this writ petition.

6. Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Commissioner,
Hindu Religious and Charitable Endowments,
Nungampakkam,
Chennai.
- 2.The Deputy Commissioner,
Hindu Religious and Charitable Endowments,
Salem - 1.
- 3.The Joint Commissioner,
Hindu Religious and Charitable Endowments,
Salem - 1.

+1cc to Mr.A.K.Balaji, Advocate, S.R.No. 30968
+1cc to Mr.R.Neelakantan, Advocate, S.R.No. 30194
+1cc to the Special Government Pleader(HR & CE), S.R.No. 31680

W.P.No.14141 of 2016
and

W.M.P.Nos.12376 & 12377 of 2016
& W.M.P.No.3210 of 2018

GJ(CO)
GN(10/05/2019)