

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.08.2019

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P.No.26560 of 2013, M.P.No.1 of 2013
and
WMP No.19027 of 2019

Ramesh

..Petitioner

Vs

1.The Commissioner,
Hindu Religious & Charitable
Endowment Department,
Nungambakkam High Road,
Chennai-600 034.

2.The Joint Commissioner,
Hindu Religious & Charitable
Endowment Department
Mayiladuthurai,
Nagapattinam District.

3.The Fit Person cum Executive Officer,
Arulmighu Udvaganathaswamy Thirukoil,
Thirumanancherri,
Kuttalam Battam,
Nagapattinam District.

..Respondents

Prayer in W.P.No.22039 of 2007 : Writ Petition filed under Article 226 of the Constitution of India, seeking issuance of a Writ of Certiorari, to call for the records of the 2nd respondent in Na.Ka.No.7685/2012/Aa1 dated 03.09.2013 and quash the same.

For Petitioner : Mr.Sounthar

For Respondents : Mr.M.Maharaja
Special Government Pleader
(HR & CE) for R1 and R2

Mr.A.K.Sriram for M/s.A.S.Kailasam &
Associates for R3

O R D E R

Heard Mr.Sounthar, learned counsel for the petitioner, Mr.M.Maharaja, learned Special Government Pleader for the respondents R1 and R2 and Mr.A.K.Sriram, learned counsel for R3 and perused the materials available on record.

2. This writ petition has been filed challenging the order of the second respondent dated 03.09.2013 whereunder the third respondent was appointed as a fit person for Arulmighu Neelambal Chokkanadhar Maariyamman Thirukoil, Alangudi, Kuttalam, Nagapattinam District.

3. The case of the petitioner is that the petitioner's father was appointed as hereditary trustee under Section 63(b) of the Tamilnadu HR & CE Act, 1959. The hereditaryship was challenged by the villagers in an appeal in A.P.No.39 of 1984 before the Commissioner, HR & CE Administration Department. Aggrieved over the order of the Commissioner, the villagers, who sought to implead them as respondents in the writ petition, had instituted a suit in O.S.No.94 of 1984 before the Sub Court, Mayiladuthurai and the Sub Court held that the villagers have no right over the administration of the temple and that the judgment of the trial Court was also confirmed in the appeal in A.S.No.155 of 1988 dated 02.07.2001.

4. Mr.Sounthar, learned counsel for the petitioner would state that after the death of the petitioner's father, the petitioner succeeds the trusteeship of the temple. The petitioner has filed an application before the second respondent to declare the name of the petitioner as hereditary trustee and when the application is pending, the order impugned in this writ petition cannot be passed.

5. Mr.Maharaja, learned Special Government Pleader appearing for respondents 1 and 2 and Mr.Sriram, learned counsel for the third respondent would fairly submit that the application of the petitioner to declare him as hereditary trustee of the temple is pending before the second respondent and in view of the interim order passed in the writ petition, the petitioner is administering the temple.

6. Mr.M.Pari, learned counsel who appears for petitioners in the impleading petition in WMP No.19027 of 2019 to implead them as respondents 4 to 16 in the above writ petition would submit that the temple was constructed by collecting 'Urvari' and the temple is being administered by the villagers in pursuance of the Trust Deed as D.No.43/1927; that it is true that the proposed respondents have lost their case before the Commissioner, HR & CE and the Civil Court, since they were not

able to produce trustee deed; that writ petitioner cannot claim as a sole legal heir of Rengaraj Padayachi, as his sister makes a rival claim. It is further contended that the petitioner's sister sent a notice stating that the petitioner has involved in criminal activities and therefore, he is not a fit person to be appointed as trustee of the temple.

7. In the case on hand, the appointment of the petitioner's father viz., R.Rengaraju Padayachi as a hereditary trustee under Section 63(b) of the Tamilnadu HR & CE Act, is not disputed. It is an admitted fact that the appointment was challenged by the proposed respondents before the Commissioner and also before the competent Civil Court, wherein it has been held that the villagers have no right to administer the temple. The learned counsel for the petitioner would state that the proposed respondents are the family members and close relatives of the plaintiffs in the suit and therefore, they cannot be impleaded in this writ petition, since the findings given by the Civil Court had attained the finality. Considering the above facts, the impleading application is liable to be dismissed. Accordingly, the same is dismissed.

8. Taking note of the fact that the petitioner is the lineal descendant of the Hereditary Trustee and his application to appoint him as a President is pending consideration and the Temple is being administered by the petitioner for the past six years, this Court is of the opinion that the order impugned in this Writ Petition cannot be allowed to stand and hence, it is set aside.

9. The second respondent is directed to pass final orders on the application of the petitioner, after providing opportunity to all necessary parties within a period of twelve weeks from the date of receipt of a copy of this order. Till such time, status-quo as on date shall continue. Even though, this Court dismissed the impleading petition in W.M.P.No.19027 of 2019, a liberty is given to the proposed respondents to file necessary application before the second respondent and the same shall be considered in accordance with law.

10. With the above direction and observations, this Writ Petition is allowed. There is no order as to costs. Consequently, connected miscellaneous petition are closed.

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Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Commissioner,
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Nungambakkam High Road,
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- 2.The Joint Commissioner,
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- 3.The Fit Person cum Executive Officer,
Arulmighu Udvaganathaswamy Thirukoil,
Thirumanancherri,
Kuttalam Battam,
Nagapattinam District.

+1cc to M/s.A.S.Kailasam & Associates, Advocate, SR.No.70739
+1cc to Mr.S.Sounthar Advocate, SR.No.70742
+1cc to the Govt.Pleader, Vide Sr.No.71604

W.P.No.26560 of 2013, M.P.No.1 of 2013 &
WMP No.19027 of 2019

Kak(05/11/2019)

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