

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.05.2019

CORAM

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No.14303 of 2019

and

W.M.P.Nos.14377 and 14378 of 2019

1.Arulmighu Sellandiamman Thirukkoil
Vilayankulathaar Welfare Association
(Reg No.68/1998)Rep. By its
President and Secretary,
1/45, Keelchathambur Post,
Namakkal Taluk and District.

2.K.M.Velusamy

...Petitioners

-Vs-

1.The Joint Commissioner,
Tamil Nadu HR & CE Department
Salem - 636004

2. The Executive Officer,
Palapattarai Mariamman Temple
Namakkal - 637001.

...Respondents

Prayer:- Writ Petition is filed under Article 226 of the Constitution of India to issue Writ of certiorarified Mandamus to call for the records on the file of the 1strespondent relating to the issue of the impugned order, namely, in Se.Mu.Na.Ka.No.9229/2018/E1/Dated 02.04.2019 and quash the same and consequently to issue orders forbearing/restraining the respondents from interfering with the affairs of the subject temple, i.e., A/m Sellandiamman Thirukoil situated at Keelsathambur Village of Paramathy Taluk, Namakkal District.

For Petitioners : Mr.N.Subramaniyan

For Respondents : Mr.Maharaja
Special Government Pleader
(HR & CE)

ORDER

The writ petition has been filed seeking for an issuance of writ of Certiorarified mandamus, to call for the records on the file of the 1st respondent relating to the issue of the impugned order dated 02.04.2019 and quash the same.

2. The affidavit in support of the writ petition had been filed by one C.Thiyagarajan, who claims to be the Secretary of the 1st petitioner- Association. The 2nd petitioner is K.M.Velusamy, who is recognized as the Hereditary Trustee of the Temple. Even from the impugned proceedings, it is seen that the 2nd petitioner had also participated in the proceedings. Finally, the impugned order had been passed. In the impugned order, there is an appeal provision given under Section 53 (5) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. The writ petitioners have come to the Court without taking recourse to the appeal proceedings. It is the grievance of the learned counsel for the writ petitioners that the respondents have no jurisdiction and hence, they have approached the writ Court. Permission is granted to the writ petitioners to raise the issue of jurisdiction in their grounds of appeal. It is also seen that the time period for filing the appeal is 30 days. If the petitioners are properly able to explain, they may file the appeal with an application to condone the delay and that may also be considered by the Appellate Authority. This Court is concerned by the fact that the Hereditary Trustee K.M.Velusamy had not filed the affidavit, though he had participated in the proceedings before the Joint Commissioner.

3. Granting permission to the writ petitioners to file appeal under Section 53(5) of the Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

vsi2/kmm

Sd/-

Assistant Registrar(V.O)

//True Copy//

Sub Assistant Registrar

To

1.The Joint Commissioner,
Tamil Nadu HR & CE Department
Salem - 636004.

2. The Executive Officer,
Palapattarai mariamman Temple
Namakkal - 637001.

+1cc to Mr.N.Subramaniyan, Advocate, SR.No.43911/19
+1cc to the Govt.Pleader, Vide Sr.No.44037/19

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and

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Kak(21/05/2019)



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