

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2019

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.37077 of 2016 and
W.M.P.Nos.31872, 31873, 31887 and 38601 of 2016

K.Kathirvel

.. Petitioner

Vs.

- 1.The Joint Commissioner,
Hindu Religious and Charitable
Endowment Department,
Coimbatore - 18.
2. The Executive Officer,
Arulmigu Subramaniaswamy Thirukoil,
Chennimalai, Erode District.
3. O.S.Eswaramoorthy, *
S/o O.S.Sivanmalai Gounder,
Odakkattuvalasu, Vadugapatti Post,
Arachalur Via, Erode District.

(*R3 is impleaded as per Order
dated 26.10.2016 passed in W.MP.No.32356 of 2016
in W.P.No.37077 of 2016)

.. Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order passed by the second respondent in his proceedings No.Nil, dated 01.04.2016 and quash the same and consequently directing the respondents to print the petitioner's family name as Ulagapuram Munsif maniyam Thirumalai Gounder Family for conducting Kalmandapam Kattalai pooja in the invitations during the Car festival to be conducted by the respondents by receiving the prescribed fee for conducting Poojas during the festival of Thaipoosam, Panguni Ther and Soorasamharam and the Pooja materials to be brought only from the house of the Gurukkal.

For Petitioner : Mr.C.Prakasam

For Respondents1 & 2 : Mr.M.Maharaja
Special Government Pleader
(HR & CE)

For Respondent-3 : Mr.S.Kaithamalai Kumaran

O R D E R

The writ petition has been filed by the petitioner challenging the impugned order passed by the second respondent in his proceedings dated 01.04.2016 and seeking a direction to the respondents to print his family name as Ulagapuram Munsif Maniyam Thirumalai Gounder Family for conducting Kalmandapam Kattalai Pooja in the invitations during the Car festival to be conducted by the respondents by receiving the prescribed fee for conducting Poojas during the festival of Thaipoosam, Panguni Ther and Soorasamharam and the Pooja materials to be brought from the house of the Gurukkal.

2. The petitioner claims that his grand father was Munsif and Ex.Maniyam of Ulagapuram Village and they are recognized as "Ulagudiyor" hereditary family and his grand father rendered service to the temple especially, the second respondent temple in Vellode, Perundurai Taluk. It is stated that even from the year 1930, the said Kattalai Pooja etc. were done by the petitioner's family. Now the third respondent, who is one of the relatives of the petitioner, had some quarrell with the petitioner's family. Hence, the petitioner's father is said to have been created a trust on 26.03.2009. However, the said trust is not functioning now. The petitioner has been requesting the official respondents not to print the name of Nandhavanam Trust in the Car festival invitation and to print the name of Ulagapuram Munsif Maniyam Thirumalai Gounder Family Kalmandapam Kattalai Pooja. As there is an objection from the third respondent that the said trust was not recognized by the Hindu Religious and Charitable Endowments Department (herein after referred to as HR & CE), a representation dated 15.06.2015 was made by the petitioner, but no order was passed till date. Admittedly, from the year 2016, only HR & CE has been conducting the said festival.

3. Heard Mr.M.Maharaja, learned Special Government Pleader (HR & CE) appearing on behalf of respondents 1 and 2 and Mr.S.Kaithamalai Kumaran, learned counsel appearing on behalf of the third respondent.

4. The learned Special Government Pleader appearing for the HR & CE submitted that the impugned order came to be passed only because there was a dispute between two factions. The impugned order also further states that though originally the family members of the petitioner were performing the Kattalai Pooja in the year 2015, there has been a dispute between the petitioner and the third respondent. Hence, it was decided that HR & CE would conduct festival, pending resolution of the dispute between the parties. The petitioner claimed exclusive right to get their names printed in the invitations for the Taipoosam festival, Panguni Ther and Soorasamharam Pooja and also the Pooja materials to be brought only from the house of the Gurukkal.

5. It is well settled that when the dispute relating to the temple is between two private parties, the Deputy Commissioner/Joint Commissioner, under Section 63 of the Tamil Nadu Hindu Religious and Charitable Endowment Act, has been governing the same.

6. As the petitioner claims to be the hereditary trustee and claims the status of the office of the Registrar and the same is opposed by the third respondent, the said dispute has to be resolved by the Joint Commissioner under Section 63(e) of the Tamil Nadu Hindu Religious and Charitable Endowment Act.

7. Section 63(e) of the said Act states that whether any person is entitled, by custom or otherwise to any honour, emolument or perquisite in any religious institution and the established usage of a religious institution is in regard to any other matter, only the Joint Commissioner has got the powers to decide.

8. Admittedly, there is no such application made before the authorities under Section 63(a) of the Tamil Nadu Hindu Religious and Charitable Endowment Act. After hearing the parties for some time, the learned counsel for the petitioner submitted that the petitioner would make an application for determining his right.

9. Accordingly, the petitioner is permitted to make an application to the Joint Commissioner within a period of two weeks from the date of receipt of a copy of this order. On such application being made, the Joint Commissioner is directed to give notice to all the parties concerned including the third respondent and conduct an enquiry affording them an opportunity of personal hearing and decide the matter, on merits and pass

appropriate orders within a period of four weeks from the date of receipt of such application.

10. With the above directions, this writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

av/rsi

To

1. The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Coimbatore - 18.

2. The Executive Officer,
Arulmigu Subramaniaswamy Thirukoil,
Chennimalai, Erode District.

+1cc to Mr.C.Prakasam, Advocate SR.No.10952

+1cc to Mr.S.Kaithamalaikumaran, Advocate SR.No.10544

+1cc to Government Pleader SR.No.11516

सत्यमेव जयते

W.P.No.37077 of 2016

GMV (18/02/2019)

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