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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2019

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THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

Writ Petition Nos.273 of 2018 & 12145 of 2019
and
W.M.P.Nos.331 & 332

V.Pasavaraj

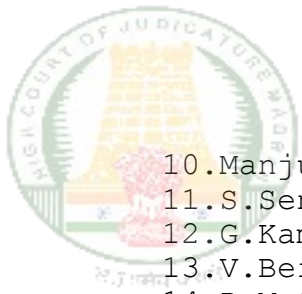
..Petitioner in W.P.No.273/2018

vs.

- 1.The Commissioner,
Hindu Religious & Charitable Endowment Department,
119, Nungambakkam High Road,
Chennai - 600 034.
- 2.The Joint Commissioner,
Office of the Commissioner,
Hindu Religious and Charitable Endowments Department,
Chennai - 600 034.
- 3.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Cuddalore District.
- 4.The Executive Officer,
Arulmigu Thillai Kaliyamman Temple,
Chidambaram - 608 000,
Cuddalore District.

5.J.Brammasri S.Saravanan ..Respondents in W.P.No.273/2018
(R5 Impleaded vide order of Court
dated 20/02/2019 made in
WMP.No.8027 of 2018 in WP.No.273 of 2018)

- 1.S.Palanisamy
- 2.R.Gnanavel
- 3.Sumathi
- 4.K.Lakshmi
- 5.V.Parasuraman
- 6.D.Narayanan
- 7.B.Saravanan
- 8.T.Sankar
- 9.M.Settu



10.Manjula
11.S.Senthil
12.G.Kamatchi
13.V.Bernatsha
14.D.Muthaiyan
15.Meenakshi
16.Kamala
17.G.Sekar
18.R.Vasanthan
19.Mala

..Petitioners in W.P.No.12145/2019
Vs

1.The District Collector,
Cuddalore District.

2.The Superintendent of Police,
Cuddalore.

3.The Municipal Commissioner,
Chidambaram Municipality,
Chidambaram.

4.The Tahsildar,
Chidambaram.

5.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Cuddalore.

6.Arulmigu Gurunamachaviya Moorthy Swamigal mutt,
Rep.by Executive Officer,
Chidambaram Town, Cuddalore.

7.V.Pasavaraj

8.V.Vanchinathan ..Respondents in W.P.No.12145/2019
(R6 to R8 impleaded vide order dated
29/04/2019 made in WMP.No.13480 of 2019
in WP.No.12145 of 2019)

Prayer in W.P.No.273/2018: Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records pertaining to the impugned order passed by the 2nd respondent dated 05.10.2017 in Na.Ka.No.46790/2017/S1 and Letter issued by the 4th respondent dated 21.12.2017 respectively and quash the same.

Prayer in W.P.No.12145/2019: Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of a



Writ of Mandamus, directing the 5th respondent herein to forthwith regularize the tenancy of the petitioners by fixing fair rent for the extent of the land the petitioners are possessing based on the 1st to 8th petitioners representation dated 05.02.2019, the 9th to 12th petitioners representation dated 06.02.2019, the 13th to 18th petitioners representation dated 07.02.2019 and 19th petitioner's representation dated 08.02.2019 addressed to the 5th respondent.

In W.P.No.273 of 2018

For Petitioner : Mr.Marudhachalamoorthy for
M/s.Uday

For Respondents: Mr.M.Maharaja
Special Government Pleader (HR&CE)
for R1 to R3
Mr.R.Swaminathan for R4
Mr.V.Uday Kumar for R5

In W.P.No.12145 of 2019

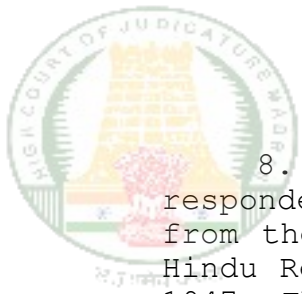
For Petitioner : Raja.K

For Respondents: Mr.R.Govindasamy
Special Government Pleader for R1,R2, R4
Mr.V.Jayaprakash Narayanan for R3
Mr.M.Maharaja for R5
Mr.T.Saravanan for R8

COMMON ORDER

By consent, both the writ petitions are taken up for consideration.

2. W.P.No.273 of 2018, has been filed by V.Pasavaraj, who claimed to be Trustee & Madathipathi of Arulmigu Gurunamachaviya Moorthy Swamigal Mutt, Chidambaram. The said Mutt appears to control, about 100 houses, 20 shops and 30 covering pattarais and also a school by name Kamaraj Matriculation with about 4000 sq.ft., of land and one Thirupparkadal Tank. It is stated that there are also several tenants in the said premises. One individual by name Saravanan, who also claims to be interested in the Mutt, had given a complaint against the petitioner herein on 30.10.2015 before the Assistant Commissioner, Hindu Religious and Charitable Endowment Department, Cuddalore. Notice was issued to the petitioner to participate in the enquiry. A report was also received from the Tahsildar seeking to identify the properties of the Mutt. It was then found that, most of the properties were actually transferred, sold and that the school



8. In this connection, the documents relied on by the respondents, as mentioned in the counter affidavit and evidenced from the year 1906, state that the Mutt is under the control of Hindu Religious & Charitable Endowment Department, even prior to 1947. The document which the petitioner relied namely, the Will had been rejected by the respondents. Very specifically, it has been stated that since there were sale of properties and since the petitioner himself had not come forward to participate in the enquiry to protect the properties, a fit person was necessary and was appointed only in accordance with the rules.

9. Any Mutt, which is administered by a Madathipathi requires dedicated administration by the Madathipathi. Dedicated administration would include not only performing religious rites but also administering and protecting the properties of the Mutt. If the properties are sold or leased out, and such actions of the Mutt are reported to the department, the HR & CE has an inherent right to step in to regularize the activities. In the present case also, a complaint made by one Saravanan, who has been impleaded as the 5th respondent, it has been found that there were several instances of Mutt mal-administration including sale of properties. The sale of properties would mean that not only does the properties go away from the custody of the Mutt but also receipt of sale considerations to the detriment of the Mutt. If such considerations are taken away by any individual member, this would be to the loss of the Mutt. This cannot be permitted. It has to be prevented.

10. In the instant case, I find no reason to interfere with the order of the respondents appointing a fit person. It is only for the benefit of the Mutt. If at all, the petitioner requires, he may file necessary application to the respondents to also participate in the Management. But such participation, can be done only if he clears his name from charges of mal-administration. So long as there are charges against him, unless he clears himself of those charges, he cannot be permitted to participate in the administration of Mutt.

11. In so far as the second writ petition, No.12145 of 2019 is concerned, a direction is issued to the respondents to consider the said representation and pass appropriate orders after giving due notice to all the required stake holders to put-forth their case and also provide opportunity to produce necessary documents and pass final orders on or before 29.02.2020.



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12. With these observations, W.P.No.273 of 2018 is dismissed and W.P.No.12145 of 2019 is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

- 1.The Commissioner,
Hindu Religious & Charitable Endowment Department,
119, Nungambakkam High Road, Chennai - 600 034.
- 2.The Joint Commissioner, Office of the Commissioner,
Hindu Religious and Charitable Endowments Department,
Chennai - 600 034.
- 3.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Cuddalore District.
- 4.The Executive Officer, Arulmigu Thillai Kaliyamman Temple,
Chidambaram - 608 000, Cuddalore District.
- 5.The District Collector, Cuddalore District.
- 6.The Superintendent of Police, Cuddalore.
- 7.The Municipal Commissioner,
Chidambaram Municipality, Chidambaram.
- 8.The Tahsildar,Chidambaram.
9. The Executive Officer,
Arulmigu Gurunamachaviya Moorthy Swamigal mutt,
Chidambaram Town, Cuddalore.

- +1 cc to M/s.Uday, Advocate Sr.No. 101888
- +1 cc to M/s.V.Udayakumar,Advocate Sr.No. 102027
- +1 cc to M/s.R.Swaminathan,Advocate Sr.No. 101451
- +1 cc to M/s.K.Raja,Advocate Sr.No. 101587
- +1 cc to M/s.T.Saravanan,Advocate Sr.No. 101458
- +1 cc to The Government Pleader Sr.No.102273 & 102274

AKM/21.01.2020/6P- 16C /

Writ Petition Nos.273 of 2018 & 12145 of 2019