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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:**25.10.2019**

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRP.(MD).No.1491 of 2012(PD)

and

M.P.(MD).No.1 of 2012

1. R.Meiyathal
2. U.K.Murugaiah
3. M.Kaurnanithi
   S/o./ Megaraj,
   Represented by Power Agent Krishnaveni .. Petitioners

Vs.

1. Ramasamy
2. Natarajan
3. Veerappan
4. Thangavel Servai

5. The Commissioner,
   H.R. & C.E. (Administration) Department,
   Haddows Road, Nungambakkam,
   Chennai.

6. The Joint Commissioner,
   H.R. & C.E (Administration),
   Amma Mandapam Road,
   Srirangam,
   Trichy-6. .. Respondents

PRAYER: This Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 18.10.2011, made in I.A.No.308 of 2008 in O.S.No.112 of 2007, on the file of the Sub Court, Pudukottai and to allow the said I.A. as prayed for.

For Petitioners : Mr.G.Sridharan
For R-1 : Mr.D.Ramesh Kumar
For R-2 to R-6 : No Appearance

O R D E R

This Civil Revision Petition has been filed challenging the order passed by the Court below dismissing the application filed by the petitioners to direct the Commissioner and Joint Commissioner of Hindu Religious and Charitable Endowments (Administration) Department, to appoint one of the legal heirs of the deceased / Trustee, who was the second defendant in the suit.

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2. The petitioners are the plaintiffs in the suit filed under Section 70 of the Hindu Religious and Charitable Endowments Act, seeking for the relief of permanent injunction and to set aside the order passed by the Joint Commissioner dated 27.11.2006.

3. During the pendency of the suit, the second defendant, who was a trustee of the Temple died. Therefore, an application came to be filed in I.A.No.308 of 2008, seeking for a direction to the Joint Commissioner to appoint any one of the legal heirs in the place of the deceased / second defendant in accordance with Section 54 of the Hindu Religious and Charitable Endowments Act.

4. This Petition was dismissed by the Court below on the ground that there is already an application pending before the Joint Commissioner and Commissioner of Hindu Religious and Charitable Endowments Department, for the very same relief and therefore, the present application is not maintainable.

5. Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the first respondent.

6. This Court is of the considered view that if there is already an application pending before the Joint Commissioner of Hindu Religious and Charitable Endowments Department, under Section 54 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, the Court below could have given a direction to the Joint Commissioner to decide the application and appoint one of the legal heirs to represent in the suit in the place of the deceased / second defendant. Instead of doing so, the Court below has proceeded to dismiss the very application itself. This has now resulted in the main suit pending for the last so many years without any progress.

7. Therefore, there shall be a direction to the Joint Commissioner, Hindu Religious and Charitable Endowments (Adminstration) Department, Srirangam, Trichy-6, who is the sixth respondent in this petition, to immediately appoint one of the legal heirs of the deceased / second defendant viz., Arunachalam, to be impleaded in the suit. This exercise shall be completed within a period of two weeks from the date of receipt of a copy of this order. Immediately on the legal heir being nominated by the Joint Commissioner of Hindu Religious and Charitable Endowments Department, the petitioners / plaintiffs shall file an appropriate application to implead the legal representative and the same shall be allowed by the Court below.

8. In the result, the Civil Revision Petition is allowed and the fair and final order passed by the Court below in I.A.No.308 of 2008 in O.S.No.112 of 2007, dated 18.10.2011, is hereby set aside. The Court below is directed to complete the proceedings in O.S.No.112 of 2007, within a period of four months the impleading is

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completed after. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Sub Court, Pudukottai.

2. The Commissioner,
   H.R. & C.E. (Administration) Department,
   Haddows Road, Nungambakkam,
   Chennai.

3. The Joint Commissioner,
   H.R. & C.E (Administration),
   Amma Mandapam Road,
   Srirangam,
   Trichy-6.

+1 CC to MR.G.SRIDHARAN, Advocate (SR-94703[F] dated 25/10/2019)

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25.10.2019

TSG
MK (14.11.2019) 3P 5C

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