



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED 06.06.2019

CORAM

THE HONOURABLE MR.JUSTICE **K.RAVICHANDRABAABU**

AND

THE HONOURABLE MR.JUSTICE **SENTHILKUMAR RAMAMOORTHY**

W.A.(MD)Nos.404 and 461 of 2019

and

CMP(MD)Nos.3474, 3844 and 4365 of 2019

W.A.(MD)No.404 of 2019

Arulmigu Ponnar Sankar Thirukovil
rep. by
The Executive Officer,
Ponnivalanadu,
Marungapuri Taluk,
Trichy District,
Having Office at
Arulmigu Mariamman Thirukovil
Manaparai,
Trichy District.

.... Appellant/Nil/Nil

Vs.

1.R.Chandrasekaran Respondent/Petitioner/Writ Petitioner

2.The Joint Commissioner,
Department of Hindu Religious and
Charitable Endowment,
Trichy.

.. Respondent/Sole Respondent/Sole Respondent

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent, to set aside the order dated 15.03.2019 in W.M.P(MD)No.4905 of 2019 in W.P(MD)No.6148 of 2019.

Prayer in WMP(MD)No. 4905/ 2019 :

To Stay the operation of the Impugned Order passed by the respondent dated 28.02.2019 in Se.Mu.Na.Ka.No. 263/2019/A1 pending disposal of this WP.

Prayer in WP(MD)No. 6148/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, thereby call for the records relating to the Impugned Order passed by the respondent dated 28.02.2019 in Se.Mu.Na.Ka.No. 263/2019/A1 and quash the same as illegal and arbitrary.



For Appellants : Mr.S.Prasanna Vinoth
For Respondent : Mr.P.Ganapathisubramanian (for R1)
Mr.V.R.Shanmuganathan
Spl. Govt. Pleader (for R2)

W.A. (MD) No. 461 of 2019

The Joint Commissioner,
Department of Hindu Religious
and Charitable Endowment,
Trichy

.. Appellant/Respondent/Respondent

Vs.

R.Chandrasekaran .. Respondent/Petitioner/Writ Petitioner

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent, to appeal the order passed in W.M.P(MD)No.4905 of 2019 in W.P(MD) No.6148 of 2019 dated 15.03.2019.

Prayer in WMP(MD)No. 4905/ 2019 :

To Stay the operation of the Impugned Order passed by the respondent dated 28.02.2019 in Se.Mu.Na.Ka.No. 263/2019/A1 pending disposal of this WP.

Prayer in WP(MD)No. 6148/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, thereby call for the records relating to the Impugned Order passed by the respondent dated 28.02.2019 in Se.Mu.Na.Ka.No. 263/2019/A1 and quash the same as illegal and arbitrary.

For Appellants : Mr.V.R.Shanmuganathan
Spl. Govt. Pleader

For Respondent : Mr.P.Ganapathisubramanian (for R1)

COMMON JUDGMENT

[Judgment of the Court was delivered by **K.RAVICHANDRABAABU, J.**]

Both the writ appeals are filed against the interim order granted by the Writ Court in W.M.P(MD)No.4905 of 2019 in W.P(MD) No.6148 of 2019 dated 15.03.2019.

2.Writ Appeal in W.A(MD)No.404 of 2019 is filed by Arulmigu Ponnar Sankar Thirukovil represented by the Executive Officer, who is not a party before the Writ Court. Writ Appeal in W.A(MD)No.461 of 2019 is filed by the Joint Commissioner, H.R. and C.E., Trichy, who is the first respondent before the Writ Court.



3.The writ petitioner challenged the order of the Joint Commissioner, H.R. and C.E., Trichy, dated 28.02.2019, wherein and whereby two hereditary trustees were suspended and Fit Person was appointed to the temple by name, Arulmigu Ponnar Sankar, Valanadu. The Writ Court, while entertaining the writ petition, granted an interim order of stay with a further direction that the Fit Person shall return the charge to the writ petitioner, who is one of the suspended hereditary trustee. The above interim order granted by the Writ Court is put to challenge in these writ appeals by contending that those hereditary trustees were suspended based on serious allegation made against them and therefore, the Writ Court ought not to have granted interim stay that too, with a direction to the Fit Person to return the charge to the writ petitioner. While entertaining these writ appeals, interim stay was granted on 02.04.2019. Thereafter, the matter is listed today along with the vacate stay petition filed by writ petitioner in CMP(MD)No.4365 of 2019.

4.Heard the learned counsel appearing for the appellants and the learned counsel appearing for the respondents in both the appeals.

5.The writ petition was filed challenging the order of the Joint Commissioner, H.R and C.E., Trichy in suspending the hereditary trustees and appointing the Fit Person to the subject matter temple. Correctness or otherwise of the said order has to be gone into and decided in the main writ petition after completion of the pleadings and hearing the respective parties. It is true that the Writ Court has granted an order of interim stay of the impugned proceedings at the time of admission also with a direction to the Fit Person to return the charge to the writ petitioner. We find that the Writ Court, while granting such interim order, has not expressed the prima facie case found in favour of the writ petitioner for granting such interim order, that too, with a positive direction to the Fit Person to return the charge, when admittedly it was informed before the Writ Court that the Fit Person has already taken charge. Therefore, the interim order of stay granted by the Writ Court without expressing any prima facie view on the merits of the claim made by the writ petitioner that too, with a positive direction to return the charge cannot be sustained, as rightly contended by the learned Special Government Pleader that grant of such interim order at the admission stage itself would virtually amount to allowing the main writ petition. At the same time, we are not expressing any view on the rival contentions of the parties as we propose to relegate that exercise to the Writ Court where the main writ petition is still pending. Since in these writ appeals, interim stay has already been granted and the same is in force till this day, both these writ appeals are disposed of, without expressing any view on the merits of the claim made by the respective parties, only with a request of the Writ Court to take up the main writ petition itself and decide the same on merits and in



accordance with law, within a period of four weeks from today. The Registry shall list the writ petition before the Writ Court on 12.06.2019. Till the Writ Court decides the matter, the *status quo* as on today shall be maintained by both the parties. It is open to the respective parties to place all the submissions before the Writ Court by filing their respective pleadings with supportive documents. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (W)

/ True Copy /

Sub Assistant Registrar(CS-III)

To

The Joint Commissioner,
Department of Hindu Religious
and Charitable Endowment,
Trichy

Copy To:

- 1.The Section Officer,
Judicial Section(Posting),
Madurai Bench of Madras High Court, Madurai.
- 2.The Section Officer,
Writ Section,
Madurai Bench of Madras High Court,Madurai.

+1 CC to M/s.AN.RAMANATHAN,Advocate(SR-67272[F] dated 07/06/2019)
+1 CC to M/s.SPL GP (SR-67430[F] dated 07/06/2019)

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and
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ES/11.06.2019/4P/6C