



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.11.2019

CORAM

THE HONOURABLE MR. JUSTICE M. GOVINDARAJ

W.P. (MD) No. 3360 of 2016

and

W.M.P. (MD) Nos. 2954 to 2956 of 2016

WEB COPY

Raja @ Periyasamy

: Petitioner

Vs.

1. The Secretary to Governments,
Department of Tamil Development,
Religious Endowment and Press,
Secretariat, Fort St. George, Chennai.

2. The Commissioner,
Hindu Religious & Charitable Endowment Department,
Nungambakkam, Chennai - 34.

3. The Joint Commissioner,
Hindu Religious & Charitable Endowment Department,
Madurai.

4. Fit person,
Arulmighu Sathuragiri Sundaramahalingam Tirukoil,
The Deputy Commissioner/Executive Officer,
A/M. Koodal Alagar Perumal Temple,
Madurai.

5. The Executive Officer,
Arulmighu Sathuragiri Sundaramahalingam Tirukoil,
Agraharam Street,
Vathirayiruppu,
Virudhunagar District.

: Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings of the second respondent dated 19.02.2014 in D.DIs.A.P.53/2012 D2 and that of the third respondent dated 10.09.2012 in Se.Mu.Na.Ka.No.1936/2011/Aa1 and quash the same and consequently direct the respondents 1 to 3 to appoint the petitioner as Hereditary Trustee of the petitioner temple namely, Arulmighu Sathuragiri Sundaramahalingam Tirukoil, Sathuragiri, Saptur Village, Madurai District.

For Petitioner

: Mr.V.Ilavehazian

For Mr.G.Manikandan

For Respondents 1 & 2

: Mr.V.R.Shamuganathan,

Special Government Pleader



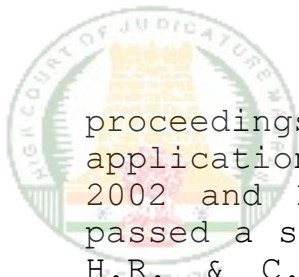
For Respondents 4 and 5 : Mr.J.Manohar
Third Respondent : Dismissed vide Court order
dated 21.09.2017

O R D E R

The petitioner claims that he is the legal heir of Hereditary Trustee, late Durairaj @ Periyasamy, and a person in the next line of succession. The Commissioner of Hindu Religious and Charitable Endowment Department in A.P.No.53 of 2012, vide order dated 19.02.2014, has declared that the petitioner's father is the Hereditary Trustee of Arulmighu Sathuragiri Sundaramahalingam Tirukoil, Sathuragiri. The said order was challenged in O.S.No.101 of 2002 by the Executive Officer of the Hindu Religious and Charitable Endowment Department. During pendency of the suit, the petitioner's father was removed from the office of Hereditary Trustee, which was challenged in O.S.No.131 of 2006. An interim application in I.A.No.306 of 2006 was filed under Section 151 of CPC for operation and implementation of the order of the Commissioner dated 14.02.2005, recognizing the petitioner's father as Hereditary Trustee. The trial Court has granted the relief as sought therein. Against which, the respondents preferred a revision petition in C.R.P. (MD) No.446 of 2006. This Court, by its order dated 07.06.2006, ordered as follows:

"Accordingly the civil revision petition stands disposed of confirming the order impugned in the revision and also making clear that the transaction of the back accounts of the temple shall be carried out as before both the respondent and the Executive Officer in unison. The income of the temple by way of donations, rents, Hundi collection, etc., shall be deposited into the bank account of the temple. The said position shall continue till the disposal of the suit. The petitioners shall file their written statement within four weeks from this date. The suit shall be disposed of within three months after the filing of the written statement by the petitioners."

2. After the death of his father and erstwhile Hereditary Trustee namely, Durairaj @ Periyasamy, the petitioner filed an application under Section 54 for recognizing him as Hereditary Trustee on the strength of the Will executed in his favour appointing him as the legal heir to the office of Hereditary Trustee. However, the first respondent appointed a Fit person by G.O. Ms. No. 248 Tamil Development Endowments and Information Department, dated 28.06.2011. The said order was challenged in W.P. (MD) No. 13154 of 2011. This Court by its order dated 24.08.2012, has set aside the Government order and given a direction to the respondents to decide the application moved by the petitioner for recognition as Hereditary Trustee. The Joint Commissioner in his



proceedings Na.Ka.No.1936/2011/A1 dated 10.09.2012, kept the application pending and subjected it to the result of O.S.Nos.101 of 2002 and 131 of 2006. Upon appeal, the appellate authority also passed a similar order dated 19.02.2014, under Section 54(4) of the H.R. & C.E. Act, keeping the application in abeyance till the disposal of O.S.Nos.101 of 2002 and 131 of 2006 on the file of the learned Principal Sub Judge, Madurai, which is under challenge before this Court.

3.It is also noted that this Court in C.R.P.(MD)Nos.1438 and 1439 of 2013, directed the learned Principal Sub Judge, Madurai to dispose of the suits, within a period of four months, but it is still pending at the stage of restoration.

4.The Commissioner, Hindu Religious and Charitable Endowments Department by its order dated 31.12.2001 has recognized the petitioner's father as Hereditary Trustee. The said order is under challenge in O.S.No.101 of 2002. Insofar as the removal of the Hereditary Trustee is concerned, it is also under challenge in O.S.No.131 of 2006. This Court in an application arose from O.S.No.131 of 2006, has made an interim arrangement permitting the Hereditary Trustee as well as the Executive Officer to operate bank accounts jointly. In view of the matter, the Office of Hereditary Trusteeship is still intact and therefore, the impugned order keeping the petition filed by the petitioner under Section 54(1) of the Act in abeyance will defeat the order passed in C.R.P.(MD) Nos.1438 and 1439 of 2013.

5.Considering the facts and circumstances of the case, a direction is issued to the respondents to dispose of the application filed by the petitioner under Section 54(1) of the Act within a period of four weeks from the date of receipt of a copy of this order. Simultaneously in the interest of justice, O.S.Nos.101 of 2002 and 131 of 2006 on the file of the learned Principal Sub Judge, Madurai are restored to file and a direction is given to the Court to dispose of the same as expeditiously as possible preferably within a period of four months.

6.In view of the above findings, the impugned order passed by the second respondent dated 19.02.2014 is set aside. This writ petition is disposed of, with the above direction. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



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To

1. The Secretary to Governments,
Department of Tamil Development,
Religious Endowment and Press,
Secretariat,
Fort St. George,
Chennai.

2. The Commissioner,
Hindu Religious & Charitable Endowment Department,
Nungambakkam
Chennai - 34.

3. The Joint Commissioner,
Hindu Religious & Charitable Endowment Department,
Madurai.

+1 CC to M/s. SPL GP (SR-100919[F] dated 25/11/2019)

+1 CC to M/s. MANIKANDAN, Advocate (SR-100489[F] dated 22/11/2019)

+1 CC to M/s. S. MANOKAR, Advocate (SR-101087[F] dated 25/11/2019)

ORDER MADE IN
W.P. (MD) No. 3360 of 2016
21.11.2019

avs (CO)
TR(22.01.2020) 4P 7C