

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.11.2020

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.24964 and 24965 of 2007
and
MP. Nos.1 and 2 of 2007

A.K.Munuswamy Mudaliar,
Old No.66 Bheemana Mudali 2nd St Alwarpet ,
Chennai-18.

...Petitioner in
W.P. No.24964 of 2007

Arulmigu Kanniamman And
Ellaiamman Thiru Koil Vizhakuzhuvinar,
Rep By Mr.D.Manoharan, Bheemanapettai ,
Chennai 4.

...Petitioner in W.P. No.24965 of 2007

Vs

- 1 The Commissioner,
Hindu Religious and Charitable Endowments
Dept., Nungambakkam,
Chennai-34.
- 2 Joint Commissioner,
Hindu Religious and Charitable Endowments
Dept., Nungambakkam ,
Chennai-34.
- 3 Executive Officer/ Thakkar,
Arulmigu Madhava Perumal Thirukoil ,
Mylapore,
Chennai-4.

...Respondents in both WPs

Common Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Certiorari to call for the records of the notice issued by the second respondent in proceedings bearing Na.Ka.No.7396/2006/A1 dated 22.5.2007 and quash the same.

For Petitioner : Mr.K.S.Viswanathan in both WPs

For Respondents : Ms.M.Karthikeyan,
Special Government Pleader
for R1 & R2 in both WPs
No Appearance for R3 in both WPs

C O M M O N O R D E R

The Petitioner in W.P.No.24964 of 2007 was 87 years old at the time of filing of Writ Petition and is stated to have passed away in the year 2010. No steps have been taken to bring his legal heirs or representatives on record. Be that as it may, further orders in this regard may not be necessary in the light of the order that I have ultimately passed in these matters.

2. The challenge is to an order dated 22.05.2007 appointing a fit person for Arulmighu Kanniyamman and Ellaiamman Thirukoil Beemanapettai, Chennai - 600 004 (temple). W.P.No.24965 of 2007 has been filed by Arulmighu Kanniamman and Ellaimman Thirukoil Vizhakuzhuvinar also seeking the same relief. The impugned order has been passed solely on the strength of an Ordinance passed under Section 47 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (in short 'Act') being Ordinance No.5 of 2006. The Ordinance requires trustees appointed by the previous Government in temples to vacate their officers and give way to fresh appointment of trustees. The impugned order has come to be passed since the trustees in the temple in question had not tendered their resignation. According to the learned counsel for the petitioner this order is also in violation of the principles of natural justice since no prior notice had been issued.

3. Mr.M.Karthikeyan, learned Special Government Pleader, would confirm that the Ordinance has itself lapsed and as such the cause of action for the impugned order does not survive. On this score alone, the impugned has to go and the same is set aside.

4. He however points out however that the temple has a Hundi and collects public funds. The counter filed also shows that no proper accounts have been maintained and as per the last audit report filed, the annual income of the temple was Rs.30,000/-. He would thus submit that it would be appropriate that the Temple be administered under the supervision of an Executive Officer. Insofar as there has been a stay of the impugned order that was made absolute on 31.10.2017, the temple has been managed by a Vizha Kuzhu after the demise of the Trustee and this arrangement continues till date.

5. Considering the arguments advanced on both sides, I allow the writ petition, however, granting liberty to the re-

spondents to initiate such action as may be appropriate, in accordance with law, for the appointment of Executive Officer to manage the affairs of the Temple. Connected Miscellaneous Petitions are closed with no order as to costs.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

ska/sl

To

- 1 The Commissioner,
Hindu Religious and Charitable Endowments
Dept., Nungambakkam, Chennai-34.
- 2 Joint Commissioner, Hindu Religious and Charitable
Endowments
Dept., Nungambakkam, Chennai-34.
- 3 Executive Officer/ Thakkar, Arulmiguy Madhava Perumal
Thirukoil ,
Mylapore, Chennai-4.

+1cc to the Government Pleader, S.R.No. 36894

W.P. No.24964 and 24965 of 2007
and
MP. Nos.1 and 2 of 2007

NMI (CO)

GN(18/01/2021)

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