

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2020

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

Writ Petition No.5504 of 2020
W.M.P.No.6442 of 2020

R.Karthiban

...Petitioner

--Vs--

The Joint Commissioner
Hindu Religious and Charitable Endowment Department
Coimbatore,
Dr.Balasundaram Road,
Coimbatore-18

... Respondent

PRAYER: PETITION filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, calling for entire records pertaining to the order dated 20.01.2020 passed by the respondent in A.Th.Mu.No.13340/2019/A1, quash the same and direct the respondent to decide the original application filed by the Applicant and others on October 2019 under Section 64(1) of the TN HR & CE Act, 1959 on merits, within a time frame.

For Petitioner : Mr.E.Ganesh

For Respondent : Mr.M.Karthikeyan
Special Government Pleader

सत्यमेव जयते
O R D E R

Mr.M.Karthikeyan, learned Special Government Pleader accepts notice for the respondent and is ready with instructions in the matter.

2. By consent expressed by learned counsel for the petitioner and learned Special Government Pleader, this writ petition is disposed finally even at the stage of admission since it involves a short point.

3. The petitioner has sought a writ of certiorarified mandamus, quashing order dated 20.01.2020, passed by the Joint Commissioner HR & CE Department/sole respondent and for a direction to him to decide the original application filed by the applicant on merits.

4. The lis relates to a temple dedicated to worship of Lord Alukku Samiyar, situated at Vettaikaranpudur, Odiyankulam Village, Annamalai Taluk Coimbatore ('Temple'). The petitioner is a devotee, who has approached the respondent for settlement of a scheme in terms of Section 64(1) of the Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959 (in short 'Act'). Various factual details in regard to the history of the Temple and the involvement of the petitioner therein are not adverted to for the reason they are not relevant to decide this writ petition.

5. Suffice it to say that another devotee by the name V.B.Sabapathy Gounder, who has been selected to administer the Temple by the villagers as their representative is stated to have acted unilaterally against the interests and welfare of the deity. These allegations form part of the subject matter of adjudication by the respondent and are referred to merely for the sake of complete narration.

6. In order to safeguard the interests of the temple, the petitioner had earlier filed a writ petition in W.P.No.14170 of 2018, seeking a direction to the respondent to act on a representation filed by him on 31.03.2018 and requesting the fresh appointment of a fit person for administering the temple. By order dated 13.06.2018, the Assistant Commissioner, HR & CE had been directed by this Court to consider the representation and pass orders within six weeks.

7. Proceedings were initiated thereafter under Section 49 of the Act and after conducting enquiry, the Executive Officer of the Arulmighu Mariamman and Angalamman Thirukoil, Pollachi Taluk, Coimbatore District has been appointed as a fit person.

8. It appears that the same V.B. Sabapathy Gounder has filed an application under Section 63(b) of the Act before the respondent canvassing his appointment as hereditary Trustee. The petitioner has been arrayed as a respondent in that application as well and states that that he is resisting the same. In the meanwhile, the petitioner along with other devotees and villagers also took steps to approach the respondent for settlement of a scheme to administer the Temple in terms of the provisions of the Act by way of an application forming the subject matter of this writ petition.

9. The aforesaid application has come to be dismissed/returned unilaterally by the respondent on 20.01.2020 on the ground that as an application under Section 63(b) of the Act is already pending an application in terms of Section 64(1) cannot be entertained simultaneously.

10. I am of the considered view that this action of the respondent in rejecting the application unilaterally is premature. It would have been appropriate for the respondent to have heard both applications together, since both applications have a bearing in the ultimate decision to be taken.

11. In the light of the view as expressed by me above, the impugned order is set aside and the application restored to the file of the respondent. The respondent will list both applications, i.e., application filed by the petitioner in terms of Section 64(1) of the Act as well as the application filed by V.B.Sabapathy Gounder in terms of Section 63(b) of the Act within a period of three (3) weeks from date of receipt of a copy of this order. Notices shall be issued to all the parties concerned and after hearing them, appropriate orders shall be passed in both the petitions within a period of eight (8) weeks from date of conclusion of personal hearing of all parties in accordance with law.

12. This Writ Petition is disposed in the aforesaid terms. Connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The Joint Commissioner
Hindu Religious and Charitable Endowment Department
Coimbatore,
Dr.Balasundaram Road,
Coimbatore-18

+ 1 CC to Mr. V.Srikanth, Advocate, SR 19716

+ 1 CC to the Special Government Pleader, High Court, Madras

HR & CE 20680

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NMI - CO

MRP 29/05/2020