



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.20500 of 2013

and

M.P. (MD)Nos. 2 to 4 of 2013 & 1 to 4 of 2015

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1. C.Geetha
2. C.Uma Maheswari ... Petitioners

Vs

1. The Joint Commissioner
Hindu Religious and Charitable Endowment Department,
Madurai - 625 001.
2. R.Saravana Pandian
3. Arulmighu Pandi Muneeswarar Thirukoil,
rep by its Managing Trustee,
Melamadai,
Madurai North Taluk,
Madurai - 625 020.

(R3 impleaded vide court order dated
28.03.2014 in M.P(MD) 1 of 2014 ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent in Na.Ka.No.2335/2013/Ne.Mu.A., dated 17.10.2013 quash the same as illegal arbitrary, unenforceable and consequently direct the first respondent to appoint any one of the petitioners to perform the functions of dismissed trustee as per section 54 of H.R & C.E Act.

For Petitioners : Mr.G.Prabhu Rajadurai
For R-1 : Mr.K.P.Narayanakumar,
Special Government Pleader
For R-2 : Mr.V.Ramakrishnan
For R-3 : No Appearance

ORDER

This writ petition has been filed, challenging the order, dated 17.10.2013, passed by the first respondent, appointing the second respondent as the Poosari for Arulmighu Pandi Muneeswarar Thirukoil, situated at Melamadai, Madurai North Taluk, Madurai.



2. According to the petitioners, the husband of the first petitioner P.M.Chellapandi Poosari, was one of the Hereditary Trustees and Poosari of Arulmighu Pandi Muneeswarar Thirukoil. It is the case of the petitioners that proceedings were initiated against the husband of the first petitioner by the Commissioner, Hindu Religious and Charitable Endowments Department, for certain acts of commissions and omissions and he was removed from Poosariship. According to the writ petitioners, they submitted an application for succession of Poosariship as per Section 54 of Tamil Nadu Hindu Religious and Charitable Endowments Act, on 31.10.2013, as the petitioners are next in line of succession and they are entitled to succeed to the Office of Poosariship, subsequent to the removal of P.M.Chellapandi Poosari, by the Hindu Religious and Charitable Endowments Department. However, according to the petitioners, illegally the first respondent appointed the second respondent as Poosari, for the said Temple in the place of P.M.Chellapandi Poosari, under the impugned order of the first respondent, dated 17.10.2013. In such circumstances, this writ petition has been filed, challenging the impugned order.

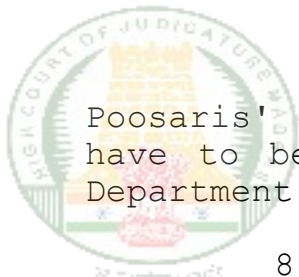
3. Heard Mr.G.Prabhu Rajadurai, learned counsel appearing for the petitioners, Mr.K.P.Narayanakumar, learned Special Government Pleader appearing for the first respondent and Mr.V.Ramakrishnan, learned Counsel appearing for the second respondent.

4. The learned counsel for the petitioners drew the attention of this Court to Section 54 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 and submitted that the first petitioner being the wife of P.M.Chellapandi Poosari and the second petitioner being the daughter, are next in line of succession and therefore, they are entitled to succeed to the Office of Poosari, as per Section 54(1) of the Tamil Nadu Hindu Religious and Charitable Endowments Act.

5. The learned counsel for the petitioners also drew the attention of this Court to the Communication, dated 13.12.2019, sent by the Temple, recognizing the petitioners as the Poosaris, for the afore-mentioned Temple.

6. The learned counsel for the second respondent, on instructions, would submit that the petitioners are now recognized as the Poosaris of Arulmighu Pandi Muneeswarar Thirukoil and the second respondent has no objection for the petitioners to act as Poosaris for the afore-mentioned Temple. In view of the event subsequent to the filing of this writ petition and in view of the fact that the petitioners have been recognized as Poosaris by the respondents, the writ petition has now become infructuous.

7. The learned counsel for the petitioners would further submit that for the service rendered by the petitioners as



Poosaris' of Arulmighu Pandi Muneeswarar Thirukoil, emoluments will have to be paid by the Hindu Religious and Charitable Endowments Department and till date, they have not been paid.

8. The learned counsel for the petitioners, on instructions, would submit that the petitioners have no objection for the second respondent also getting paid with the emoluments for the period during which the second respondent had acted as a Poosari for the afore-mentioned Temple. However, the claim made by the petitioners with regard to the emoluments cannot be adjudicated by this Court and it is for the Hindu Religious and Charitable Endowments Department, to consider the same on merits and in accordance with law. In fact, by an interim order, dated 15.05.2014, passed in this writ petition, this court had directed the Hindu Religious and Charitable Endowments Department to deposit the entire collections received from the Temple and maintain a separate account for the same and had also directed the Department not to withdraw any sum from the said collections, until further orders from this Court. Since the collection amount pertaining to the said Temple is lying with the Hindu Religious and Charitable Endowments Department, the petitioners as well as the second respondent emoluments for the services rendered by them as Poosaris, can very well be paid from and out of the amount lying to the credit of the Hindu Religious and Charitable Endowments Department with regard to Arulmighu Pandi Muneeswarar Thirukoil. However, the amount payable to the petitioners as well as the second respondent will have to be determined by the Hindu Religious and Charitable Endowments Department, after giving sufficient opportunity to them and pass final orders on merits and in accordance with law. This exercise will have to be done by the first respondent within a period of six months from the date of receipt of a copy of this order.

9. With the aforesaid directions, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

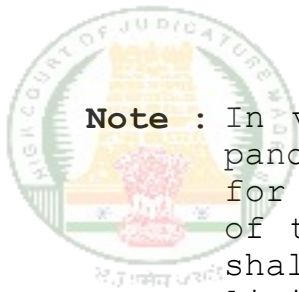
Assistant Registrar (T&P)

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Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.

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To

The Joint Commissioner
Hindu Religious and Charitable Endowment Department,
Madurai - 625 001.

+1 CC to M/s.V.RAMAKRISHNAN, Advocate SR-20085.

+1 CC to M/s.G.PRABHU RAJADURAI, Advocate SR-20251.

W.P. (MD) No.20500 of 2013

14.10.2020

SS (CO)

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