



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. (MD)No.17938 of 2020

and W.M.P. (MD) Nos.14952 & 14953 of 2020

(Through Video Conference)

WEB COPY

M.Sankarathmajan

... Petitioner

Vs.

1) The Commissioner,
Hindu Religious and Charitable
Endowments Department,
Nungambakkam High Road,
Chennai 600 034

2) The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department,
Tirunelveli.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in Na.Ka.No.6342/2020-1/A2 dated 19-09-2020 and quash the same as illegal and direct the 2nd respondent to implement the directions of the 1st respondent in Na.Ka.No.26696/2020/A2 dated 05-09-2020 and recognize and record the petitioner as Hereditary Trustee for Arulmigu Sorimuthu Ayyanar Temple, Singampatty, Tirunelveli District as per the provisions of Tamil Nadu Act 22 of 1959.

For Petitioner : Mr.S.Manohar

For Respondent : Mr.K.P.Narayanakumar,
Special Government Pleader

O R D E R

This writ petition has been filed challenging the impugned order of the second respondent rejecting the petitioner's application for considering him as a Hereditary Trustee for Arulmigu Sorimuthu Ayyanar Temple, Singampatty, Tirunelveli District as per the provisions of Tamil Nadu Act 22 of 1959.

2. Mr.K.P.Narayanakumar, learned Special Government Pleader accepts notice for the respondents. By consent of both sides, this writ petition is taken up for final disposal at the stage of admission itself.

<https://hcservices.ecourts.gov.in/hcservices/>



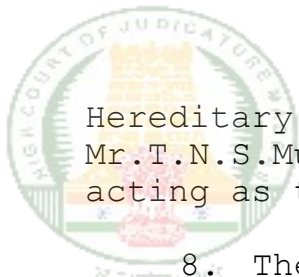
3. It is the case of the petitioner that his father Mr.T.N.S.Murugadoss Theerthapathy Raja was recognized as a Hereditary Trustee of the aforementioned Temple by the first respondent. He died on 24.05.2020. According to the petitioner, he is in the next line of succession and he is entitled to be declared as Hereditary Trustee for the aforementioned Temple. He has submitted an application on 10.06.2020 with the second respondent to recognise him as Hereditary Trustee for the aforementioned Temple. By the impugned order dated 19.09.2020, the second respondent has rejected the petitioner's application on the ground that he has to file the same under section 63(b) of the Tamil Nadu Hindu religious and Endowments Act, 1959 (hereinafter referred as the 'Act'). Aggrieved by the same, this writ petition has been filed.

4. Heard Mr.S.Manohar, learned counsel for the petitioner and Mr.K.P.Narayanakumar, learned Special Government Pleader for the respondents.

5. It is the case of the petitioner that the first respondent has already recognized the petitioner's father as a Hereditary Trustee even as early in the year 1961 by proceedings of the first respondent dated 08.09.1961. According to the learned counsel for the petitioner, the petitioner, being the son of the deceased Hereditary Trustee, is entitled to be declared as Hereditary Trustee, subsequent to the death of his father under section 54(1) of the Act. However, according to him, the second respondent has rejected the application of the petitioner on the ground that the petitioner has to file the said application under section 63(b) of the Act.

6. Per contra, the learned Special Government Pleader appearing for the respondents would submit on instructions that section 54(1) of the Act will apply only in cases, where, a declaration was obtained by the erstwhile Hereditary Trustee under section 63(b) of the Act. According to him, in the case on hand, even the petitioner's father was not declared as Hereditary Trustee under section 63(b) of the Act. Therefore, according to him, the second respondent has rightly rejected the application submitted by the petitioner and has rightly directed the petitioner to file an application under section 63(b) of the Act. He would also submit on instructions that the respondents are prepared to consider the petitioner's application under section 63(b) of the Act within the time frame to be fixed by this Court.

7. Admittedly, in the case on hand, the petitioner's father Mr.T.N.S.Murugadoss Theerthapathy Raja was not declared as a Hereditary Trustee under Section 63(b) of the Act. This being the case, as rightly contended by the learned Special Government Pleader for the respondents, the petitioner will have to necessarily file an application under section 63(b) of the Act to declare himself as a



Hereditary Trustee subsequent to the death of his father Mr.T.N.S.Murugadoss Theerthapathy Raja, who was earlier allegedly acting as the Hereditary Trustee for the aforementioned Temple.

8. Therefore, this Court is of the considered view that the impugned order passed by the second respondent directing the petitioner to file an application under section 63(b) of the Act to recognise him as the Hereditary Trustee is correct. Further, when the respondents are prepared to consider the application of the petitioner under Section 63(b) of the Act within a time frame to be fixed by this Court, this Court is of the considered view that no prejudice would be caused to the petitioner, if his application submitted earlier is treated as an application under section 63(b) of the Act and the respondents consider the same on merits and in accordance with law, after hearing the necessary parties, within a time frame to be fixed by this Court.

9. For the foregoing reasons, the writ petition is disposed of by directing the second respondent to treat the application dated 10.06.2020 filed earlier as an application filed under section 63(b) of the Act and pass final orders on merits and in accordance with law after hearing all the necessary parties including the petitioner as well as the Executive Officer of Arulmigu Sorimuthu Ayyanar Temple, Singampatty, Tirunelveli District, including granting them the right of personal hearing within a period of twelve weeks from the date of receipt of a copy of this order.

10. With the aforementioned directions, the writ petition is disposed of and the findings given under the impugned order dated 19.09.2020 passed by the second respondent is hereby quashed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2021

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.



To:

1) The Commissioner,
Hindu Religious and Charitable
Endowments Department,
Nungambakkam High Road,
Chennai 600 034

2) The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department,
Tirunelveli.

+1cc to Mr.S.Manohar, Advocate Sr.No.24979

Order made in
W.P. (MD) No.17938 of 2020
08.12.2020

VB (07.01.2021) 4P 4C