



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

W.P. (MD)No.6850 of 2017

and

W.M.P. (MD)Nos.5405 and 5406 of 2017

and

W.M.P. (MD)No.5165 of 2018

1.A.Sambasivan

2.G.Balasubramanian

... Petitioners

Vs

1.The Commissioner,

Hindu Religious and Charitable
Endowment Department,
Nungambakkam High Road,
Chennai - 600 034.

2.The Joint Commissioner,

Hindu Religious and Charitable
Endowment Department,
Tirunelveli - 627 002.

3.The Assistant Commissioner,

Hindu Religious and Charitable
Endowment Department,
Tuticorin - 628 002.

4.The Tahsildar,

Srivaikundam Taluk,
Srivaikundam.

5.The Executive Officer,

Arul Mighu Poisolla Meyyan Sastha Koil,
Office of Arul Mighu Adhinathan Alwar Tirukkoil,
Alwarthirungari - 628 612,
Tuticorin District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings in Rc.No.8821/2016/83 dated 15.02.2017 on the file of the second respondent herein and to quash the same and direct the first respondent to consider the report dated 10.01.2014 forwarded by the Inspector of the Hindu Religious and Charitable Endowment Department to the second respondent and pass orders appointing the petitioners as the Trustees of Arul Mighu Poisolla Meyyan Sastha Koil, Thozhapannai, Srivaikundam Taluk, within a time frame as may be fixed by this Court.

For Petitioners : Mr.N.Subramanian

For Respondents : Mr.V.R.Shangmuganathan,

Spl. Government Pleader for R1 to R4

Mr.M. Muthugeethiyan for R5



O R D E R

Heard the learned counsel on either side.

2.It is not in dispute that the Joint Commissioner, Hindu Religious and Charitable Endowment, Tirunelveli, framed a scheme on 27.09.2011 in O.A.No.13 of 2000 for the management of the petition mentioned religious institution. Clause 4 of the scheme contemplates appointment of trustees from among Kothapillai community. The grievance of the petitioners is that even though their names have been recommended by the Assistant Commissioner, Hindu Religious and Charitable Endowment, Tuticorin, till date they have not been appointed. The answer of the learned Special Government Pleader is that the recommendation could not be acted upon because the petitioners could not establish that they belong to Kothapillai community. The petitioners' counsel wants to explain that they belong to Pillaimar community and since they were engaged in masonry construction works, they were known as Kothapillai and that there is no community known as Kothapillai.

3.I cannot fault the respondents, if there is any error in the description of the community. The respondents have to necessarily implement the scheme as it is framed. If according to the petitioners, there is some error in the description of the community, then the remedy open to the petitioners is to apply for modification under the relevant provision of Hindu Religious and Charitable Endowment Act, 1959.

4.Therefore, even while dismissing the writ petition, I permit the petitioners to move the jurisdictional authority for modification of the scheme already framed. The petitioners' counsel states that a modification petition will be filed within a period four weeks from the date of receipt of a copy of this order. The second respondent/jurisdictional authority is mandated to dispose of the said modification petition on merits and in accordance with law within a period of three months thereafter.

5.With this liberty to the petitioners and direction to the jurisdictional authority, this writ petition stands disposed of. I make it clear that I have not gone into merits of the petitioners' claims. No costs. Consequently, connected miscellaneous petitions are closed.

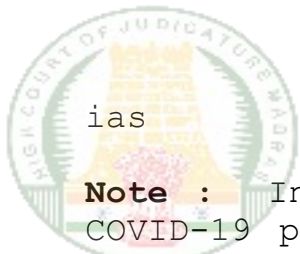
Sd/-

Assistant Registrar (CSII)

// True Copy //

/ /2020

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
Endowment Department,
Nungambakkam High Road,
Chennai - 600 034.
- 2.The Joint Commissioner,
Hindu Religious and Charitable
Endowment Department,
Tirunelveli - 627 002.
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- 4.The Tahsildar,
Srivaikundam Taluk,
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KB(28.07.2020) 3P 5C