



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.09.2020

CORAM

WEB COPY

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

W.P. (MD)No.14013 of 2016
and W.M.P. (MD)No.12189 of 2016

Sri Saranga Desikendra Swamigal Math,
represented by Sri-la-Sri Neelakanda Saranga Desikendra Swamigal,
Through Manager cum Secretary,
S.Selvakumar, Head Post Office Road,
Kumbakonam.

... Petitioner

Vs.

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

2.The Additional Commissioner (General),
Hindu Religious and Charitable Endowment Department,
Nungambakkam High Road,
Chennai-600 034.

3.The Assistant Commissioner
Hindu Religious and Charitable Endowment Department,
Kumbakonam.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorarified Mandamus, to call for the record of the first respondent in his proceedings in Na.Ka.No.62882-1/2006/S-2, dated 27.06.2016 and quash the same and further forbearing the respondents, their Officers, Servants, etc., from interfering with the management of the Sri Saranga Desikendra Swamigal Math.

For Petitioner : Mr.V.Meenakshisundaram

For Respondents : Mr.K.Chellapandiyan,
Additional Advocate General,
Assisted by
Mr.Lakshmi Prasanna,
Government Advocate



For proposed impleading Respondent : Mr.V.Jeyaprakash,
for M/S.V.Chandrasekar.

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Additional Advocate General assisted by the learned Government Advocate appearing for the respondents.

2.Even before commencing his arguments, the learned counsel for the petitioner, on instructions from the present Math Head, namely, Sri-la-Sri Neelakanda Saranga Desikendra Swamigal gave an undertaking that the present Head of the Math will not deal with the properties of the Math in violation of the principles laid down in Section 34 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. In other words, there will not be any alienation of the Math properties. No long term leases will be created.

3.This undertaking given by the petitioner through his learned counsel is placed on record.

4.What is under challenge in this writ petition is the order, dated 27.06.2016 passed by the Commissioner of Hindu Religious and Charitable Endowment Department appointing Interim Administrator for the petitioner Math. Section 60 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 reads as under:

60. Arrangements when vacancies occur. - (1) When a vacancy occurs in the office of the trustee of a math or a specific endowment attached to a math and there is a dispute respecting the right of succession to such office, or

when such vacancy cannot be filled up immediately, or when the trustee is a minor and has no guardian fit and willing to act as such or there is a dispute respecting the person who is entitled to act as guardian, or

when the trustee is by reason of unsoundness of mind or other mental or physical defect or infirmity unable to perform the functions of the trustee,

the [Assistant Commissioner] may take such steps and pass such order [as he thinks] proper for the temporary custody and protection of the endowments of the math or of the specific endowment, as the case may be, and shall report the matter forthwith to the [Commissioner].



(2) Upon the receipt of such report, if [the Commissioner], after making such inquiry [as he deems] necessary, is satisfied that an arrangement for the administration of the math and its endowments or of the specific endowment, as the case may be, is necessary, [he shall] make such arrangement [as he thinks fit] until the disability of the trustee ceases or another trustee succeeds to the office, as the case may be.

(3) In making any such arrangement, [the Commissioner] shall have due regard to the claims of the disciples of the math, if any.

(4) Nothing in this section shall be deemed to affect anything contained in the Tamil Nadu Court of Wards Act, 1902 (Tamil Nadu Act I of 1902).

5. In the case on hand, no vacancy has arisen in the Office of the Head of the Math. Secondly, in S.A.(MD)No.1086 of 2006, the decree passed by the Court below removing the Math Head has been set aside. The contingencies set out in Section 60 of the Act are absent. Therefore, the impugned order cannot survive and the same is quashed. The writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Gns

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 Additional Commissioner (General),
Hindu Religious and Charitable Endowment Department,
Nungambakkam High Road,
Chennai-600 034.

3.The Assistant Commissioner
Hindu Religious and Charitable Endowment Department,
Kumbakonam.

+1cc to Special Government Pleader, SR.No. 17689

W.P. (MD) No.14013 of 2016

18.09.2020

NR (15/10/2020) 4P : 5C