



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.09.2020

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.20474 of 2018

in

W.M.P. (MD) Nos. 18224 and 18225 of 2018

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V.V.Vairam

...Petitioner

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,
Sivagangai.

3.The Executive Officer,
Arulmighu Suyamprakasa Eswarar Thirukoil,
Ilupakudi, Karaikudi Taluk, Sivagangai cum
The Executive Officer,
Arulmighu Muthumari Amman Temple,
Karaikudi - 630 001.

4.The Fit Person,
Arulmighu Suyamprakasa Eswarar Thirukoil,
Ilupakudi, Karaikudi Taluk, Sivagangai cum
The Executive Officer,
Arulmighu Koppudayanayagi Amman Temple,
Karaikudi - 630 001.

...Respondents

[Respondents 3 and 4 are impleaded vide order dated 01.09.2020 in W.M.P. (MD) Nos.21614 and 21616 of 2019, respectively.]

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order dated 21.08.2018 in SM Na.No.11785/2012/L5 of the first respondent herein and quash the same and consequently, direct the respondent to forthwith recognize the appointment of the petitioner as Hereditary Trustee of Arulmigu Suuyampira Easwarar Thirukoil, Illuppakudi, pursuant to the proceedings of the first respondent herein in Na.Ka.No.55971/2017/A2, dated 24.04.2018.

For Petitioner

: Mr.G.Prabhu Rajadurai.

For Respondents

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



ORDER

This Writ Petition is filed challenging the impugned proceedings in SM Na.No.11785/2012/L5, dated 21.08.2018 passed by the first respondent herein and to direct the respondent to forthwith recognize the appointment of the petitioner as Hereditary Trustee of Arulmigu Suuyampira Easwarar Thirukoil, Illuppakudi, pursuant to the proceedings of the first respondent herein in Na.Ka.No.55971/2017/A2, dated 24.04.2018.

2.The learned counsel appearing for the petitioner would submit that Arulmigu Suyampira Easwarar Thirukoil, Illuppakudi is one of the temples, which is founded in the year 1833. It is one of the temples of the Nagarathars' Community. The management and administration of the said temple is governed by a scheme, which is framed by the Division Bench of this Court by judgment dated 05.05.1954 in A.S.No.300 of 1946 etc. Under the said scheme, the right of the hereditary-ship of the trustee claiming under AR.L family has been recognized. Mr.V.R.Swayamprakash was elected as hereditary trustee by the members of AR.L family and his appointment was recognized by the second respondent by proceeding dated 23.08.2010 with effect from 20.05.2010 for a period of five years.

3.During the tenure, the said Swayamprakash suspended by the second respondent by his proceeding dated 19.05.2016. Aggrieved by the same, Swayamprakash filed a petition in W.P.(MD)No.9831 of 2016. In the meantime, charges were also framed against the said Swayamprakash and he removed from the hereditary trustee. Thereafter, an Executive Officer was appointed to manage the said temple by the second respondent on 24.05.2016. Again, Swayamprakash filed one more writ petition in W.P.(MD)No.10126 of 2016, challenging the appointment of the Executive Officer. This Court by orders dated 23.12.2016, dismissed W.P.(MD)No.9831 of 2016 and allowed W.P.(MD)No.10126 of 2016.

4.The learned counsel for the petitioner would further submit that the first respondent issued proceedings in Na.Ka.No.55971/2017/A2, dated 24.04.2018 to the second respondent stating that the temple was being administered in accordance with the scheme framed by this Court in A.S.No.491 of 1951, dated 05.05.1954. In the said scheme, provisions have been made for appointment of one hereditary trustee from AR.L family and appointment of two non hereditary trustees among the Nagarathars of 33 villagers. The petitioner has been elected as the Hereditary Trustee by AR.L family members.



5. According to the learned counsel for the petitioner, the petitioner herein submitted an application for appointing him as trustee in the aforesaid temple. The said application is pending. In the meantime, the petitioner came to know that without notice to the petitioner, the first respondent by proceeding dated 21.08.2018 appointed an Executive Officer for a period of 5 years under Section 45(1) of Tamil Nadu Hindu Religious and Charitable Endowments Act. Hence, the petitioner filed this present Writ Petition.

6. The learned Special Government Pleader appearing for the respondents would submit that the respondents had passed final order and removed Swayamprakash as hereditary trustee of the said temple, due to maladministration and to safeguard the properties, the trustees appointed the Executive Officer. Further, he would submit that the application of the petitioner is still pending with the Joint Commissioner/second respondent. According to the learned Special Government Pleader, the said application would be considered in accordance with the provisions of the Hindu Religious and Charitable Endowment Act and the department has not so far appointed a member in the post of non hereditary trustee.

7. Considering the aforesaid submissions and perusal of the records, it is seen that the petitioner submitted an application for appointing him as hereditary trustee in the aforesaid temple. The said temple is governed by a scheme framed by the Division Bench of this Court by judgment dated 05.05.1954 in A.S.No.300 of 1946 etc. Due to the complaint made against one Swayamprakash, the final order has been passed by the respondents against him.

8. In the meantime, the family members of AR.L. family elected the petitioner as hereditary trustee and the said application was forwarded by the Commissioner of the HR&CE department addressed to the Joint Commissioner of the HR& CE department for approval of his hereditary trusteeship. But so far, no decision has been taken by the respondents.

9. In the light of the aforesaid facts and circumstances of the case, this Court is inclined to direct the second respondent to consider the petitioner's representation dated 17.03.2017 based on the resolution dated 05.03.2017 and pass appropriate orders on merits and in accordance with law as expeditiously as possible preferably within a period of twelve weeks from the date of receipt of a copy of this order. Subject to the out come of the order passed in the said application, the respondent shall pass appropriate order on the petitioner's application for cancellation of the appointment of Executive Officer by its impugned proceedings dated 24.05.2016.



10. In view of the above, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

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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.

To

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+1 CC to Mr.G. PRABHU RAJADURAI, Advocate (SR-15655[F] dated 02/09/2020)

+1 CC to SGP (SR-15670[F] dated 02/09/2020)

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