



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.07.2020

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) .No.12836 of 2017

and

W.M.P. (MD) .Nos.9932 & 9933 of 2017

WEB COPY

1.N.Sathan

2.K.Sathan

...Petitioners

Vs.

1.The Commissioner,
Hindu Religious and Charitable
Endowment Department,
Chennai-34.

2.The Joint Commissioner,
Hindu Religious and Charitable
Edowment Department,
Sivagangai, Sivagangai District.

3.Sathappan

4.Fit Person,
Arulmigu Malayala Satha Ayyanar
Periya Karuppusamy Kovil,
K.Pudupatti, Tharmapatti Post,
Puzhuthipatti via, Thirupathur Taluk,
Sivagangai District.

...Respondents

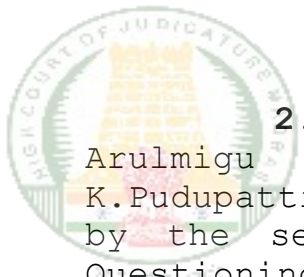
(Respondent No.4 is impleaded vide Court order dated
16.08.2017 made in W.M.P. (MD).No.11833 of 2017)

PRAYER: Writ petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records pertaining to the impugned order passed by the first respondent herein in A.P.No.33/2016 D2, dated 05.05.2017, confirming the order passed by the second respondent in Na.Ka.No.7884/2014/A1, dated 16.09.2016 and quash the same.

For Petitioners	: Mr.R.Vijayakumar
For R-1 & R-2	: Mr.V.R.Shanmuganathan Special Government Pleader
For R-3 & R-4	: Mr.C.Guhaseelarupan

ORDER

Heard the learned counsel appearing for the writ petitioners and the learned Special Government Pleader appearing for the respondents 1 and 2 and the learned counsel appearing for respondents 3 and 4.



2. The petitioners herein were the hereditary trustees of Arulmigu Malayala Satha Ayyanar Periya Karuppusamy Kovil, K.Pudupatti. They were removed from their office of trusteeship by the second respondent herein vide order dated 16.09.2016. Questioning the same, the petitioners filed A.P.No.33/2016 D2, before the first respondent. The Appellate Authority / Commissioner, Hindu Religious and Charitable Endowment Department confirmed the order passed by the original authority and dismissed the appeal by order dated 05.05.2017. Challenging the same, this writ petition has been filed.

3. The petitioners' counsel did not seriously pursue the challenge in this writ petition. But he wanted this Court to make two vital observations. Relying on the judgment of the Hon'ble Division Bench reported in **2016 (1) CTC 9-(C,Andiappan Vs. the Joint Commissioner, Tamil Nadu, Hindu Religious and Charitable Endowment Board)**, the petitioners' counsel contended that the removal of the petitioners herein from the office of the hereditary trusteeship cannot be a bar for recording the claims of a person next in line of succession to the office of trusteeship. He also would contend that in an institution of this nature, appointing a fit person from outside the family is also not to be encouraged.

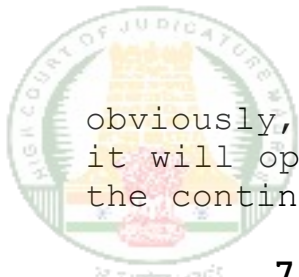
4. I am in full concurrence with the first submission made by the learned counsel appearing for the writ petitioners. Therefore, even while sustaining the orders impugned in the writ petition and dismissing this writ petition, certain directions have to be issued in the interest of justice.

"1. Those next in line of succession to the writ petitioners herein are permitted to submit applications for recording their names as hereditary trustees in the place of the petitioners herein since they have been removed from the said office.

2. The applications to be filed by those in the next in line of succession is not to be enquired into in any quasi judicial fashion."

5. This Hon'ble Court long ago held that the role attributed to the concerned authority is only to record their names, in the event of there being no rival claim. Of course, in the event of there being a rival claim it is the Civil Court that will have to adjudicate. The concerned authority is directed to dispose of the application that may be filed by those next in line of succession within a period of six weeks from the date of such filing.

6. If without any hitch or impediment the successors take the place of the writ petitioners herein, the fit person has to vacate the office immediately. If any rival claim is lodged,



obviously, the fit person will have to continue and in that event, it will open to the interested persons to renew their challenge to the continuance of the fit person in the office.

7. The writ petition stands disposed of with the aforesaid directions. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

tsg

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,
Chennai-34.
- 2.The Joint Commissioner,
Hindu Religious and Charitable
Edowment Department,
Sivagangai, Sivagangai District.

+1 CC to MR.R. VIJAYAKUMAR, Advocate (SR-13341[F] dated 30/07/2020)

ORDER MADE IN
W.P. (MD) .No.12836 of 2017
28.07.2020