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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2021

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THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. NO. 1088 OF 2012 AND
M.P. NO. 1 OF 2012

R.Srinevasan

... Petitioner

-vs-

1. The Commissioner,
Tamil Nadu Hindu Religious and Charitable Endowment,
Nungambakkam High Road,
Chennai - 600 034.
 2. The Joint Commissioner,
HR&CE Administration,
Villupuram.
 3. The Executive Officer,
Arulmighu Renukambal Temple,
Polur Taluk,
Tiruvannamalai District.
- ... Respondents

PRAYER :

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus forbearing the respondents from interfering with the Management and Control of the petitioner's Temple pending the disposal of the Suit in O.S. No. 111 of 2021 on the file of the Subordinate Judge, Arani.

For Petitioner : Mr.Avinash Wadhwani
for Mr.V.Raghavachari

For Respondent : Mr.N.R.R.Arun Natarajan
Government Advocate for R1&R2
Mr.A.K.Sriram
for M/s.A.S.Kailasam&Associates R3

O R D E R

The prayer sought for herein is for a Writ of Mandamus forbearing the respondents from interfering with the Management and Control of the petitioner's Temple, pending disposal of the Suit in O.S. No. 111 of 2021 on the file of the Subordinate



Judge, Arani.

2. That insofar as the third respondent / Temple is concerned, it is the claim of the petitioner that, he is a Hereditary Trustee and in order to establish that aspect, there has been a proceedings before the Hindu Religious and Charitable Endowment Department, i.e., respondents, in O.A. No. 8 of 2007, where an order was passed on 06.07.2011 rejecting the claim of the petitioner. Felt aggrieved over with the said order, he filed A.P. No. 61 of 2011 before the Appellate Authority Commissioner, where also the petitioner lost his appeal through the order of the Commissioner dated 25.11.2011. As against the said orders concurrently made against the petitioner, the petitioner filed a Suit under Section 70 (ii) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 in O.S. No. 111 of 2011 on the file of the Subordinate Judge, Arani, Tiruvannamalai District, where the petitioner inter alia sought for a declaration declaring that the petitioner is the Hereditary Trustee of the Temple concerned.

3. However, during the pendency of the said Suit which was instituted on 17.12.2011 by the petitioner, the petitioner since could not get any interim order in view of the embargo put in under the statute, i.e., under Section 70(ii) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, he has chosen to approach this Court by filing the present Writ Petition with the aforesaid prayer seeking a prohibitory mandamus restraining the official respondents from interfering with the alleged possession of the petitioner as Hereditary Trustee to maintain third respondent / Temple.

4. Heard Mr.Avinash Wadhwani, learned counsel appearing for the petitioner who would submit that, though such concurrent orders were passed by the original authority as well as the appellate authority under the Tamil Nadu Hindu Religious and Charitable Endowments Act, as against which, the Suit was filed which was pending all these years, the petitioner since being the Hereditary Trustee is functioning as a Hereditary Trustee and that it need not be disturbed by the respondents. Therefore, only in order to get a prohibitory order against the official respondents, this Writ Petition has been filed, as such kind of prohibitory orders by way of interim relief cannot be obtained by the petitioner in a pending Suit in view of Section 70(ii) of the Tamil Nadu Hindu Religious and Charitable Endowments Act.

5. The learned counsel appearing for the petitioner also has



submitted that, the suit has been tried and arguments were heard and it is reserved for orders, therefore, at any time, the order may come in the said Suit.

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6. However, Mr.N.R.R.Arun Natarajan, learned Government Advocate appearing for the first and second respondents as well as Mr.A.K.Sriram, learned counsel appearing for the third respondent by relying upon the counter affidavit separately filed by them would submit that, subsequent to the orders passed by the original authority as well as the appellate authority against the petitioner, in order to maintain the Temple, a fit person has been appointed and who had taken charge on 30.11.2011 and all along, the fit person has been continuing the administration of the third respondent / Temple. This factor has been reiterated in the counter affidavit filed by the third respondent also. Therefore, the aforesaid factor cannot be controverted by the learned counsel appearing for the petitioner, however, he submits that, insofar as the claim of the petitioner to continue as Hereditary Trustee is concerned, as an interim measure, that relief can be granted by this Court. Therefore, in the year 2012, this Writ Petition has been filed and all along, no orders since has been passed and in the meanwhile, it was claimed by the respondents that, fit person has been appointed in the year 2011 and they are continuously administering the Temple is concerned, this Writ Petition can be disposed of by passing suitable orders.

7. I have heard the said submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

8. It is an admitted fact that, concurrently, the petitioner suffered with orders passed by the original authority as well as the appellate authority with regard to his claim as being the Hereditary Trustee of the third respondent / Temple and as against those orders, he had filed O.S. No. 111 of 2011 in the year 2011 itself and the said Suit all along has been pending and now it is reserved for orders. However, immediately, after the order passed in A.P. No. 61 of 2011 by the appellate authority on 25.11.2011, fit person was appointed for the temple on 30.11.2011, i.e., within five days from the date of order passed in Appeal Petition and from that date onwards, the fit person had been in the affairs or in the administration of the third respondent / Temple and that aspect cannot be disputed by the petitioner. Therefore, insofar as administering the Temple for time being, the fit person already in the helm of affairs who can continue. And it is needless to mention that, once the



Civil Court who reserved the orders in the Suit filed by the petitioner passes a judgment and decree, the parties would abide by such orders and decree to be passed. Therefore, at this juncture, the prayer sought for by the petitioner cannot be considered and granted. Accordingly, this Writ Petition fails and hence it deserves to be dismissed.

9. In the result, this Writ Petition is dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vji

To

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Tamil Nadu Hindu Religious and Charitable Endowment,
Nungambakkam High Road,
Chennai - 600 034.
2. The Joint Commissioner,
HR&CE Administration,
Villupuram.
3. The Executive Officer,
Arulmighu Renukambal Temple,
Polur Taluk,
Tiruvannamalai District.
4. The Subordinate Judge, Arani

+lcc to Mr.V.Raghavachari, Advocate, S.R.No.57756
+lcc to the Government Pleader, S.R.No.57733

W.P. No. 1088 of 2012
and
M.P. No. 1 of 2012

SMI (CO)
PM/26/11/2021