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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.14824 of 2016

S.Jagan Somasundaram

... Petitioner

Vs.

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

2. The Joint Commissioner,
Hindu Religious and Charitable
Endowments, Vellore.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Certiorarified Mandamus, to call for the records relating to the order of the 1st Respondent herein dated 12.01.2016 in R.P. No.148/2015/D2 and quash the same and consequently direct the respondents herein to declare the petitioner as the Hereditary Trustee in respect of Arulmigu Hrithayaliswara Temple, Tirunindravur, Poonamallee Taluk, Thiruvallore District.

For Petitioner : Mr.A.R.Karthik Lakshmanan for
Mrs.AL.Ganthimathi

For Respondents : Mr.NRR.Arun Natarajan,
Government Advocate

O R D E R

Heard Mr.Karthik Lakshmanan, learned counsel for the petitioner and Mr.NRR.Arun Natarajan, learned counsel for the respondents.

2. The short point raised by the petitioner in challenging order dated 12.01.2016 passed by the Commissioner, Hindu Religious and Charitable Endowments (HR&CE) Department/R1



dismissing his Revision Petition under Section 21 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (in short 'Act') is that the petitioner should have been referred to as 'Hereditary Trustee' and not 'First Trustee'.

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3. A Scheme was settled by the Board of Commissioners of the HR&CE Department on 01.05.1929 in regard to the administration of the Arulmigu Hrithayaliswarar Temple, Tirunindravur, Poonamallee Taluk, Thiruvallore District (temple). Clause 4 of the said Scheme provides for management of the temple by hereditary trustees and reads as follows:

'4. The present trustee Mr.P.S.Sathappa Chettiyar shall be first trustee under the scheme and the trusteeship shall continue in him and is heirs so long as he and his heirs pay and continue to pay an annual contribution of Rupees one Thousand two hundred to the temple.'

4. There is no dispute on the position that the present petitioner is the great grand-son of the first Trustee who was appointed under the Scheme. There is also no dispute on the position that the line of genealogy, Mr.P.S.Sathappa Chettiyar (First Trustee) is followed in Mr.Somasundaram Chettiyar and thereafter followed in Mr. Sathappan, who passed away in 2000, and thereafter vests trusteeship in the present petitioner, Mr.S.Jeagan Somasundaram, son of Mr.Sathappan. This is also admitted by the respondents in order dated 30.04.2015 wherein, the petitioner has been appointed as the hereditary Trustee but is referred to as First Trustee.

5. In my view, the use of the word 'first' is semantically incorrect in the present context, as there can only be one first Trustee under a Scheme and that was Mr.P.S.Sathappa Chettiyar. All successive trustees can only be hereditary trustees, since the appointment of trustee is, admittedly by hereditary succession.

6. Mr. Arun Natarajan, would state that an application may well be filed in terms of Section 63 (b) of the Act seeking a resolution of the issue in regard to whether or not the petitioner holds office as hereditary trusteeship. This is, in my view, quite unnecessary as section 63, which provides for the adjudication of certain disputes by the Joint/Deputy Commissioner, has no application in the present case. There is no doubt whatsoever in regard to the entitlement of the petitioner to the position of hereditary trustee, and what is called in question is only the terminology to be employed, which question I have answered in the preceding paragraph.



7. This writ petition is allowed. All trustees appointed holding office under Scheme dated 01.05.1929 shall henceforth be referred to as hereditary trustees, subject of course, to their entitlement to that position in accordance with the Act and all applicable regulations. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

rkp

To

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

2.The Joint Commissioner,
Hindu Religious and Charitable Endowments,
Vellore.

+1cc to M/s.AL.Ganthimathi, Advocate Sr No.33094
+1cc to Government Pleader Sr No.33651

W.P. No.14824 of 2016

PL (CO)

PR (16/09/2021)