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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2021

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THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.No.5078 of 2011
and M.P.No.1 of 2011
and W.M.P.Nos.19089 of 2016 and 22704 of 2020

M.Sundaram alias Kaveri Gounder (died)

S.Dorai

...Petitioner

(brought on record as LR of the deceased
sole petitioner by order dated 01.10.2021
made in WMP No.19089 of 2016 in
W.P.No.5078 of 2011)

Vs

- 1.The State of Tamil Nadu,
Rep. By its Secretary to Government,
Tamil Development and Religious
Endowment and Information Department,
Fort St.George, Chennai - 9.
- 2.The Commissioner,
Hindu Religious and Charitable Endowments
(Admn) Department having office at
Nungambakkam High Road, Chennai - 34.
- 3.The Joint Commissioner,
Hindu Religious and Charitable Endowments
(Admn) Department, Salem.
- 4.The Inspector,
Hindu Religious and Charitable Endowments
(Admn) Department, Harur and now
appointed as Fit person in
Sri Kollapuri Amman Temple, Erumathur,
Harur Taluk, Dharmapuri District.

...Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records relating to the impugned order passed by the Joint Commissioner, H.R. & C.E., Salem, issued in Na.Ka.No.14365/2005/B2 dated 23.02.2011 and to quash the same.



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For Petitioner : Mr.P.B.Balaji
for Mr.W.C.Sridhar
For Respondents : Mr.NRR.Arun Natarajan,
Government Advocate

ORDER

Mr.P.B.Balaji, learned counsel representing Mr.W.C.Sridhar, counsel on record for writ petitioner and Mr.NRR.Arun Natarajan, learned State counsel on behalf of all the four respondents are before this virtual Court.

2.Captioned main writ petition has been filed assailing an order dated 23.02.2011 made by the third respondent bearing reference Na.Ka.No.14365/2005/B2 (hereinafter referred as 'impugned order' for the sake of brevity). To be noted, this Court is informed that a Fit Person has been appointed in and by the impugned order for a temple which goes by the name Arulmigu Sri Kollapuri Amman Temple (hereinafter 'said temple' for the sake of convenience and clarity).

3.Captioned W.M.P. (W.M.P.No.19089 of 2016) is for substituting the legal heir of the deceased lone writ petitioner M.Sundaram alias Kaveri Gounder, who, this Court is informed died pending captioned writ petition on 01.04.2016. The captioned W.M.P. i.e., substitution petition is ordered with a clear, categorical and clarion caveat. That caveat is, the substitution shall not be construed as legal heir having been recognised as hereditary trustee or given any rights pertaining to hereditary trusteeship as that has to be decided in a suit that is pending in the jurisdictional Court being a statutory suit under Section 70(1)(ii) of 'The Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Act 22 of 1959)' [hereinafter 'TN HR & CE Act' for the sake of convenience and clarity]. There will be some reference to this suit infra, in other words, the substitution is ordered for the limited purpose of disposal of captioned writ petition.

4.Likewise W.M.P.No.22704 of 2020 will be closed without expressing any view or opinion on merits of the matter, leaving it open to the civil Court to adjudicate upon and decide in accordance with law, if the petitioner chooses to go before Sub Court.

5.To be noted, Mr.C.Prabakaran, learned counsel is before this Court on behalf of the petitioner in W.M.P.No.22704 of 2020.

6.Owing to the trajectory which the matter taken today, it is not necessary to delve much into facts. Suffice to say that proceedings under Section 63 (b) of TN HR & CE Act was



taken up in appeal vide a suo motu appeal under Section 69, more particularly, SMR No.3 of 1990 on the file of the second respondent (Commissioner) and the decision in the appeal has been carried by way of further appeal but the appeal is by way of statutory suit under Section 70 (1) (ii) of TN HR & CE Act, which was alluded to supra. This Court is informed that this suit was originally O.S.No.29 of 1998 on the file of the Sub-Court, Dharmapuri, it has now been transferred to the file of Sub-Court, Harur and renumbered as O.S.No.17 of 2011.

7.This Court is also informed that the Fit Person has not taken charge as the aforementioned suit is ripe for final disposal as the trial is at an advanced stage. This Court is informed that the suit can be concluded within four months from today.

8.Captioned writ petition is disposed of directing the learned Sub Judge, Harur, to dispose of the suit in O.S.No.17 of 2011 as expeditiously as the business of the Court would permit nonetheless within four months from today i.e., on or before 04.02.2022.

9.Though obvious, it is made clear that all questions including questions raised in the captioned writ petition are left open to be agitated in the aforementioned statutory suit in accordance with law. The points urged and interlocutory applications (if any) being entertained will be at the absolute discretion of the learned Sub Judge, in other words, learned Sub Judge shall deal with any plea or application on its own merits and in accordance with law uninfluenced by this order. Learned counsel undertake that they will co-operate for expeditious disposal of the statutory suit.

10.Captioned writ petition is disposed of with the aforementioned directive. Consequently, M.P.No.1 of 2011 stands closed. No costs.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary to Government,
Tamil Development and Religious
Endowment and Information Department,
Fort St.George, Chennai - 9.



2.The Commissioner,
Hindu Religious and Charitable Endowments
(Admn) Department having office at
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(Admn) Department, Harur and now
appointed as Fit person in
Sri Kollapuri Amman Temple, Erumathur,
Harur Taluk, Dharmapuri District.

+1cc to M/s.C.Prabakaran, Advocate SR. No. 51399
+1cc M/s.P.B.Ramanujam, Advocate SR. No. 51522
+1cc to the Government Pleader SR. No. 51748

W.P.No.5078 of 2011

BP (CO)
PR (29/11/2021)