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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2021

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.29436 of 2016
and
WMP. No.25486 of 2016

D.Tamil Ganesan

... Petitioner

Vs.

1. The Commissioner,
Hindu Religious and Charitable Endowments Department
Nungambakkam High Road, Chennai-600 034.
2. The Joint Commissioner,
Hindu Religious and Charitable Endowments Department
Madurai.
3. The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Tirunelveli.
4. The Nacharammal Trust,
Vandiyur, Madurai rep. by Fit Person,
The Executive Officer of
Sri Dandayuthapani Swamy Temple, Madurai.
5. Arulmighu Kallazhagar Temple,
Alagar Koil, Rep. by its Executive Officer, Madurai.
6. M.Anandan Pillai
7. Pichayammal Alias Kamatchi

...Respondents

(R6 & R7 are impleaded as per order
dated 23.02.2017 by this Court in
WMP.Nos.31585 & 36909/2016 in WP.No.29436/2016)

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of certiorarified mandamus calling for the records pertaining to the order of the 1st Respondent in



Na.Ka.No.68556/14/A2 dated 29.07.2016 and quash the same as illegal, void, ultravirus, unconstitutional and direct the Joint Commissioner, Madurai namely the 2nd Respondent to dispose the Petitioner's application dated 29.12.2014 pursuant to the direction of the 1st Respondent made in Na.Ka.No.68556/14/A2 dated 07.01.2015 thereby recognising the Petitioner as hereditary trustee of Nachiyammal Trust, Vandiyur, Madurai District and removing the fit person appointed on 06.05.2014.

For Petitioner : Mr.D.Rajagopal

For Respondents : Mr.NRR.Arun Natarajan,
(for R1 to R3)
Government Advocate
Mr.Rajarajan (for R6)
Mr.R.Subramanian (for R7)
No Appearance (for R4 & R5)

O R D E R

Heard Mr.Rajagopal, learned counsel for the petitioner, Mr.N.R.R.Arun Natarajan, learned Government Advocate for R1, R2 and R3/officials of the HR&CE Department, Mr.Rajarajan, learned counsel for R6 and Mr.R.Subramanian, learned counsel for R7. No appearance for R4 and R5.

2.Detailed submissions of all learned counsels have been heard, upon conclusion of which the clear position that emerges is that, the impugned order dated 29.07.2016, has worked itself out. The aforesaid order permits the petitioner to carry out certain charitable activities like Annadhanam and Mandagapadi on the occasion of the Mandagapadi of Kallazhagar on 22nd and 23rd of April, 2016. The request of the petitioner for conduct of Mandagapadi has been rejected. In fact, the petitioner had, vide WP.No.14791 of 2016, sought a mandamus directing the Commissioner, HR&CE Department to permit him, as hereditary trustee of Ari Nachiyarammal Trust Vandiyur Madurai District, to perform Mandagapadi and poor feeding to the devotees on the aforesaid two days.

3.A learned single judge of this Court, by order dated 22.04.2016, states that the dates of the festival were imminent as on the date when the writ petition was being heard, and permitted the petitioner to carry out free feeding. He also directed the authority to dispose the representation of the petitioner dated 06.04.2016.



4. It is thus that impugned order dated 29.07.2016 has come to be passed by the Commissioner, HR&CE Department/R1 long after the conduct of the festival itself, rejecting the request. Thus, the order itself has very little consequence except that while passing the order, the authority incidentally states that the petitioner does not hold the post of hereditary trustee.

5. This casual observation would have no bearing on the actual status of the petitioner as hereditary trustee or otherwise, particularly for the reason that the application of the petitioner under Section 54 for hereditary trusteeship filed on 29.12.2014 is, admittedly, still pending.

6. Upon receipt of the application under Section 54, the Commissioner, HR&CE has forwarded the same to the Joint Commissioner, arrayed as R2, directing him to conduct enquiry and decide the fate of the application. In the impugned order dated 29.07.2016, the Commissioner, HR&CE Department permits the petitioner to approach the appropriate authority seeking an order appointing him as hereditary trustee, evidently for the reason that the pendency of application dated 29.12.2014 has not been brought to his notice at all.

7. Thus it would suffice that the Joint Commissioner/R2 be directed to dispose application dated 29.12.2014 within a period of six (6) weeks from today.

8. Mr. Subramanian, learned counsel appearing for R7 as well as Mr. Arun Natarajan appearing for the authorities would level serious allegations against the petitioner stating that he has been engaged in various acts of omission and commission that are grave in nature including fabrication of documents to portray himself as hereditary trustee to which position, he is not entitled.

9. These are matters of fact and will be taken note of by R2 in deciding the application. To enable the authority to marshal all facts necessary and germane to the disposal of the application under Section 54, let the parties, that is, the petitioner, R5/the Executive Officer of the temple and R6/private respondent, appear before R2 on Friday, the 30th of July, 2021 at 10.30 a.m. with all documents that they each rely upon. The Joint Commissioner will come to a decision as to the entitlement of the petitioner to the post of hereditary trusteeship and pass orders within a period of six weeks from the date of first hearing i.e. 30.07.2021.



10. This writ petition is disposed as above. Connected miscellaneous petition is closed. No costs.

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Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

vs

To

1. The Commissioner,
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2. The Joint Commissioner,
Hindu Religious and Charitable Endowments Department
Madurai.
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The Executive Officer of
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5. Arulmighu Kallazhagar Temple,
Alagar Koil, Rep. by its Executive Officer, Madurai.

+1cc to Mr.D.Rajagopal, Petitioner, Advocate, S.R.No.35187

+1cc to Mr.R.Subramanian, 7th Respondent, Advocate, S.R.No.34834

W.P.No.29436 of 2016 and
WMP. No.25486 of 2016

NR(CO)
RLP(06/09/2021)