

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2021

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.NO.8206 OF 2016

&

WMP.NOS.7301 & 7300 OF 2016

N.M.Palanimuthu (deceased)

N.P.Velmurugan,
S/o.Late Palanimuthu,
(P2 substituted as LR of the deceased
sole Petitioner vide order dated 18.02.2021
in WMP.No.3984 of 2021 in WP.No.8206 of 2016)

.... Petitioner

..Vs..

1. The Commissioner
T.N.HR&CE Board,
No.119, Uthamar Gandhi Street,
Nungambakkam, Chennai-34
2. The Joint Commissioner
T.N.HR&CE Board,
Kottai Mariamman Thiru Kovil,
Salem-1
3. The Asst. Commissioner,
TN.HR&CE Board,
Kottai Mariamman Thiru Kovil,
Salem-1
4. The Executive Officer,
T.N.HR&CE Board,
Vellai Vinayagar Thiru Kovil, Attur Town,
Salem District.
5. E.Rajendiran

...Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of certiorari calling for the file NaKa 2017/2015/E2 dated 25.05.2015 from the file of the 3rd respondent and quash the same.

For Petitioner : Ms.R.T.Sundari
For Respondents : Mr.R.Venkatesh
Government Advocate R1 to R4
No appearance for R5

O R D E R

Heard Ms.R.T.Sundari, learned counsel for the petitioner and Mr.R.Venkatesh, learned Government Advocate for R1 to R4. There is no appearance for R5 on whose instance action has been taken against the petitioner. The original petitioner has been substituted by his legal heir upon the demise of the former on 10.10.2020.

2. The dispute in this matter relates to the functioning of the Arulmighu Mariamman, Pidariamman, Chelliamman, Draupathi Amman, Angallamman, Varadaraja Perumal and Pillayar Temple (Temple). The temple appears to have been in constant litigation qua the appointment of hereditary trustee and the affidavit filed in support of the writ petition refers to litigation from as early as 1977 onwards. The culmination of the litigation was that the 4th respondent had been appointed as Executive Officer of the Temple on 07.06.1980. This order has attained finality and Mr.Venkatesh would confirm that the Executive Officer is managing the temple as on date. As a direct consequence of the appointment of the Executive Officer, the assets of the temple and of the deity are to be handed over to the Executive Officer for proper management of the temple. It is this that has been sought to be done by way of the impugned order.

3. However, admittedly, the petitioner is holding some of the temple assets even as on the date and reliance is sought to be made upon a decision of this Court passed in Criminal R.C.No.777 of 200 on 25.09.2002, wherein a learned Single Judge of this Court has stated in para 2 that the phrase 'temples and account books' should read as 'accounts books of all temples'. This is sought to be taken advantage of by the petitioner, who states that in line with the order of the Criminal Court, the accounts have been handed over.

4. This is not the true import of order dated 25.09.2002. The order in that case turned around a typographical error that had crept into earlier order of this Court in the criminal proceedings and merely corrected the error. However, this does not mean that the petitioner has the right to continue holding possession of the temple assets even after the appointment of the hereditary trustee. Upon appointment of the Executive Officer, proper management and functioning of the temple demands that all temple assets are handed over the Executive Officer for

proper storage, security and usage in temple rituals and functions.

5. Thus, the challenge to the impugned order under which the petitioner has been called upon to hand over temple assets is completely devoid of any merit whatsoever. An attempt is made by the learned counsel for the petitioner who states that the Executive Officer was appointed without any opportunity having been granted to the petitioner. However, this is a belated submission and one which is also devoid of merits. The Executive Officer has been appointed in 1980 and this writ petition has been filed in 2016. The prayer is restricted to a challenge to the order of the Assistant Commissioner dated 25.05.2015 directing the handing over of temple assets to him and the appointment of the Executive Officer has not been challenged at any stage or point of time, including in this writ petition. Thus, this submission is rejected.

6. In fine the impugned order is upheld and the petitioner is directed to hand over all temple assets including jewellery in his possession within a period of two weeks from today. The Executive Officer shall ensure full compliance of this order.

7. This writ petition is dismissed. Connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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EV (CO)
CS/01/07/2021



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