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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2021

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.24068 of 2021

R.Selvakumar

...Petitioner

-Vs-

The Joint Commissioner
The Hindu Religious and
Charitable Endowments Department,
Trust Hospital Building,
20-F, Chinnamuthu Street,
Perundurai Road,
Erode District - 638 001.

... Respondent

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondent to Record / Appoint the petitioner herein as Hereditary Trustee as a successor in line as per Section 54(1) of H.R. & C.E. Act in a time bound manner.

For Petitioner : Ms.V.S.Usharani

For Respondent : Mr.NRR.Arun Natarajan
Government Advocate

O R D E R

The prayer sought for herein is for a writ of mandamus, directing the respondent to Record / Appoint the petitioner herein as Hereditary Trustee as a successor in line as per Section 54(1) of H.R. & C.E. Act in a time bound manner.

2. It is the case of the petitioner that, a temple called Arulmighu Mariamman Temple is located at Lakkampatti village, Gobichettipalayam Taluk, Erode District, where the petitioner's father one T.P.Ramasamy claimed to had been the hereditary trustee and in this regard the petitioner claims that his father T.P.Ramasamy filed a Civil suit in O.S.No.405 of 1987 on the file of the District Munsif Court, Gobichettipalayam, where he obtained a declaratory decree that, he was the hereditary trustee of the said temple.



3. Pursuant to the same, according to the petitioner, the petitioner's father T.P.Ramasamy had been recognized and continued as a hereditary trustee for the said temple till his life time and he expired on 18.08.2000.

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4. Thereafter, according to the petitioner, the petitioner, his brother and his mother are the legal heirs of the said T.P.Ramasamy and out of the three, the mother and the other brother have already given no objection for the petitioner to inherit the hereditaryship to have the hereditary trusteeship of the temple concerned under the provisions of the H.R., and C.E., Act and accordingly the petitioner would be entitled to claim the hereditary trusteeship of the temple concerned within the meaning of Section 54(1) of the H.R. & C.E., Act (In short 'the Act'). Therefore, in this regard the petitioner had given a representation to the respondent on 18.08.2021 and the said representation, since have been not considered and decided by the respondent, i.e., the Joint Commissioner, H.R. & C.E., Erode, the petitioner has moved the present writ petition with the aforesaid prayer.

5. Heard Ms.V.S.Usharani, learned counsel appearing for the petitioner, who after having reiterated the aforesaid facts, would seek the indulgence of this Court for a direction to the respondent to decide the application / representation of the petitioner dated 18.08.2021 in accordance with law, especially under the provisions of the H.R. & C.E., Act within a time frame that may be stipulated by this Court.

6. Heard Mr.NRR. Arun Natarajan, learned Government Advocate appearing for the respondent, who however would submit that, first of all, insofar as the Civil Court decree referred to by the petitioner is concerned, where the H.R. & C.E., Department is not a party and therefore the said decree would not bind the H.R.&C.E., Department. The learned Government Advocate would also submit that, though it was claimed by the petitioner that his father T.P.Ramasamy was functioning as a hereditary trustee, unless and until that recognition had been given to the said T.P.Ramasamy to function as a hereditary trustee, that claim cannot be automatically made by a legal heir of the said T.P.Ramasamy including the petitioner.

7. In this context, it is the further contention of the learned Government Advocate that, if at all any claim is made to hold the post of hereditary trustee, that has to be gone into and decided on merits by the Joint Commissioner of the H.R. & C.E., concerned and that is one of the functions of the Joint Commissioner under Section 63 of the Act, especially under Clause (b) of Section 63. Therefore, the learned Government



Pleader would contend that, first of all the claim made by the petitioner that, the petitioner's father was considered to be a hereditary trustee and accordingly he acted as such till his lifetime, itself has to be decided under Section 63(b) of the Act and then only the claim of the petitioner to consider him and declare him as hereditary trustee within the meaning of Section 54(1) of the Act would arise. Therefore, accordingly the present plea straightaway sought for by the petitioner through his representation, that his request to consider him and declare him as a hereditary trustee within the meaning of Section 54(1) of the Act may not be feasible for compliance, therefore the learned Government Advocate seeks for the dismissal of this writ petition.

8. I have considered the rival submissions made by the learned counsel appearing for the parties and have perused the materials placed on record.

9. Though it is the stand of the respondent as projected by the learned Government Pleader that, the issue as to whether the father of the petitioner T.P.Ramasamy was first considered and recognized as a hereditary trustee of the temple concerned itself is a question and that can be resolved within the meaning of Section 63(b) of the Act is concerned, whether the claim in this regard made by the petitioner that his father was recognized and declared as a hereditary trustee of the temple concerned till his lifetime can easily be gone into by the respondent and after having gone into the same, it is open to the respondent to decide the present claim made by the petitioner to declare him as a hereditary trustee of the temple concerned as he requested through his representation dated 18.08.2021.

10. Therefore, this Court feels that, either under Section 63(b) of the Act or under Section 54(1) of the Act, the respondent can very well decide the issue raised by the petitioner through his representation dated 18.08.2021, after giving an opportunity of being heard to the petitioner.

11. In that view of the matter, this Court feel that, this writ petition can be disposed of with the following orders :

" That there shall be a direction to the respondent to consider the request of the petitioner dated 18.08.2021 and decide the same on merits and in accordance with law, especially in the context of Section 63(b) or 54(1) of the H.R.&C.E., Act as the case may be, depending upon the earlier factual matrix that has already happened, by



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giving an opportunity of being heard to the petitioner and such a decision shall be made and a final order shall be passed within a period of twelve weeks from the date of receipt of a copy of this order."

12. With these direction, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

tsvn

To

The Joint Commissioner
The Hindu Religious and
Charitable Endowments Department,
Trust Hospital Building,
20-F, Chinnamuthu Street,
Perundurai Road,
Erode District - 638 001.

+1CC to M/s.V.S.Usharani, Advocate, Sr.No.58289

W.P.No.24068 of 2021

KV (CO)
K.RK. (24.11.2021)