



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **24.11.2021**

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THE HON'BLE MR. JUSTICE M.SUNDAR

W.P (MD) No.20285 of 2021

WEB COPY

Vijaya Kumar

... Petitioner

Vs.

1.The Commissioner,
Hindu Religious & Charitable Endowment
Department,
Uthamar Gandhi Road,
Nungampakka, Chennai - 600 034.

2.The Joint Commissioner,
Hindu Religious & Charitable Endowment
Department,
Madurai - 625 016.

3.Tmt.Pitchaiyammal @ Kamatchiammal,
Door No.108, Middle Street,
KovilPappakudi, Madurai - 625 018.
(R3 suo-motu impleaded as per order
of this Court dated 24.11.2021)

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorarified Mandamus, call for the records made in the impugned order in Se.Mu.Na.Ka.No.9290/2007-2B1 dated 14.09.2021 passed by the 2nd respondent and quash the same and further direct the 2nd respondent to club the M.P.No.208 of 2019 and Na.Ka.No.9290/07/B1 and to initiate the proceedings immediately and adjudicate the matter within a time frame.

For Petitioner : Mr.K.Ramanathan

For Respondents : Mr.M.Lingadurai,

Special Govt. Pleader for R1 & R2
Mr.M.Sankaralingam for
Mr.M.Saravanan for R3

ORDER

Read this in conjunction with and in continuation of earlier proceedings made in the previous listings on 11.11.2021 and 18.11.2021, which read as follows:

'11.11.2021:

In the captioned main writ petition, an order

dated 14.09.2021 bearing 'செ.மு.ந.க.எண் .9290/2007-2/ஆ1'



(hereinafter 'impugned order' for the sake of convenience and clarity) made by the second respondent is assailed. To be noted, this is one limb of the prayer.

2. The pointed submission of Mr.K.Ramanathan, learned counsel for writ petitioner is, the impugned order has been made without hearing the writ petitioner who petitioned the second respondent on 30.07.2020.

3. Mr.M.Lingadurai, learned State counsel, accepts notice on behalf of both the respondents.

4. Mr.N.Saravanan, learned counsel who joined the virtual hearing submitted that he represents the writ petitioner's mother (Tmt.Pichiammal @ Kamatchiammal) who is admittedly now the 'Hereditary Trustee' of Vandiyur Nachiyar Ammal Trust attached to Arulmigu Kallalagar Temple, Madurai.

5. The question as to whether the writ petitioner's mother should have been impleaded / arrayed as a respondent will be decided in due course and subject to a decision on this as it is the pointed case of the writ petitioner that the impugned order came to be made without giving an opportunity to the writ petitioner and there is a violation of NJP (Natural Justice Principles), learned State counsel shall produce the records of the second respondent pertaining to the impugned order in the next listing.

6. Registry to show the name of the State counsel in the cause list in the next listing.

7. List one week hence under the caption 'ADJOURNED ADMISSION'.

8. List on 18.11.2021.

18.11.2021:

Read this in conjunction with and in continuation of earlier proceedings made in the previous listing on 11.11.2021.

2. Pursuant to earlier proceedings, more particularly paragraph No.5 therein, learned Special Government Pleader is ready with the records but learned counsel for writ petitioner has joined in the virtual hearing.

3. It is desirable that learned counsel for writ petitioner is also present in the physical hearing but learned counsel says he could not make it to Court (physical Court) today, owing to inclement weather.

4. In the light of the narrative thus far, list this matter on 24.11.2021.'



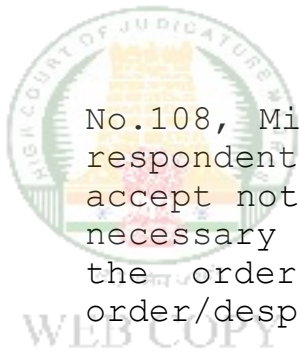
placed before me by learned State Counsel.

3. Mr.M.Sankaralingam, learned counsel representing Mr.M.Saravanan, who is before this Court submits that he represents writ petitioner's mother Tmt.Pitchaiyammal @ Kamatchiammal.

4. Suffice to say that the writ petitioner has filed a petition *inter alia* under various sub clauses of Section 53(2) and Section 54(3) of 'The Tamil Nadu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act 22 of 1959)' (hereinafter 'TN HR & CE Act'), arraying his octogenarian mother as the lone respondent with a prayer to remove her permanently from the office of hereditary trustee of 'Sri Natcharammal Kattalai Trust' [hereinafter 'said kattalai' for the sake of convenience and clarity] and to recognise the petitioner herein as the person next in line of succession qua said kattalai stating that he is the eldest male heir of respondent mother therefore, next in the line of succession i.e., junior Muthusami Pillai live and to appoint him as hereditary trustee of said kattalai. It is not necessary to dilate further on factual aspects and it will suffice to say that this petition has been taken on file as M.P.No.208 of 2019 and the same is pending on the file of the second respondent.

5. Pending M.P.No.208 of 2019, writ petitioner petitioned the second respondent by sending a communication dated 30.07.2020 with a similar prayer. This representation / communication of the writ petitioner is pending before the second respondent vide Se.Mu.Na.Ka.No.9290/2007-2/B1. This 30.07.2020 communication has been disposed of by the second respondent vide proceedings dated 14.09.2021 *inter alia* stating that there was an enquiry on 04.11.2020 and owing to the pendency of M.P.No.208 of 2019, this petition is rejected. However, a perusal of file produced before me brings to light that there is nothing to show any enquiry 04.11.2020. Therefore, this 14.09.2021 proceedings is being interfered with on this short point. I intend to set aside the proceedings on this short point. Therefore, I refrain myself from expressing any opinion on the plea of tagging the same with M.P.No.208 of 2019, as it would be appropriate for the second respondent to decide this plea.

6. The narrative thus far will make it clear that writ petitioner's mother [this Court is informed that she is 86 years old] is not only a proper party but she is also a necessary party in the captioned writ petition. In all fairness, the writ petitioner should have added his mother as one of the co-respondents in the captioned writ petition but this has not been done. I deem it appropriate to *suo-motu* implead the writ petitioner's mother viz., Tmt.Pitchaiyammal @ Kamatchiammal, Door



No.108, Middle Street, Kovil Pappakudi, Madurai 625 018, as third respondent. Mr.M.Sankaralingam and Mr.Saravanan, learned counsel accept notice on behalf of third respondent. Registry to carry out necessary and consequential amendments in the case file as well as the order copy before uploading / issuing the copy of the order/despatching the same to parties concerned.

7. The jurisdictional inspector from the office of the second respondent, who is present in Court [instructing learned State Counsel] submits that the second respondent holds Court in a Court hall in his office every Wednesday in the afternoon. Both parties agree that the next listing can be on 08.12.2021.

8. Captioned writ petition is disposed of making the following order:

a] impugned order of the second respondent being order dated 14.09.2021 bearing reference No.Se.Mu.Na.Ka.No.9290/2007-2B1 is set aside on the short point that the files do not bring to light any enquiry on 04.11.2020, though the order says that enquiry was held;

b] though obvious it is made clear that this Court has not expressed any view on the merits of the matter;

c] aforementioned communication / representation of the writ petitioner dated 30.07.2020 will be listed on 08.12.2021 Wednesday in the Court of the second respondent at 3.00 p.m.;

d] M.P.No.208 of 2019 shall also be listed on 08.12.2021 afternoon in the Court of second respondent at 3.00 p.m.;

e] I express no opinion on the plea of tagging the two petitions, though this is the second limb of the prayer in the captioned writ petition, I leave it to the second respondent to take a decision on the merits of the plea in accordance with law; and

f] irrespective of the view that the second respondent may take on the tagging of the plea, both the aforesaid applications viz., writ petitioner's communication / representation dated 30.07.2020 and M.P.No.208 of 2019 shall be disposed of as expeditiously as the business of the second respondent would permit (on the merits of the respective petition



/ representation in accordance with law uninfluenced by observations in this order) but in any event within eight weeks from 08.12.2021 i.e., on or before 02.02.2022.

There shall be no order as to costs.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

vsm

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1.The Commissioner,
Hindu Religious & Charitable Endowment
Department,
Uthamar Gandhi Road,
Nungampakka, Chennai - 600 034.

2.The Joint Commissioner,
Hindu Religious & Charitable Endowment
Department, Madurai - 625 016.

+1 CC to M/s.M. SARAVANAN, Advocate (SR-36195[F] dated 26/11/2021)
+1 CC to M/s.S. VELLAICHAMY, Advocate (SR-36215[F] dated 26/11/2021)
+1 CC to M/s.SPL GP (SR-36016[F] dated 26/11/2021)

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SB (07.12.2021) 5P 6C