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W.P. No. 12648 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2022

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 12648 of 2011

S.Ponnambalam

... Petitioner

-VS-

1. The Commissioner,
Hindu Religious and Charitable Endowments (Admn) Department,
Nungambakkam,
Chennai – 34.
 2. The Joint Commissioner,
Hindu Religious and Charitable Endowments (Admn) Department,
Thanjavur.
 3. The Fit Person/ Executive Officer,
A/m. Bramapureeswarar Temple,
Ambai Village, Nagapattinam Taluk & District.
- ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records of relating to the impugned order of the Commissioner HR & CE, Chennai passed in A.P. No. 81/2010 D2 dated 05.04.2011, confirming the order of the Joint Commissioner, HR & CE, Thanjavur issued in Pro.Rc.No. 8960/10 A3 dated 04.10.2010 in appointing the Third Respondent herein as Fit Person, in A/m, Kailasanathar Temple situated at Kidamangalam village, Erwadi Post, Ambagarathur viz., Nagapattinam Taluk and District and quash the same.



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For Petitioner : Mrs. S.R.Sumathy
For Respondents : Mr. K.Karthikeyan,
Government Advocate (for R1 & R2)
Mr. A.K.Sriram for
M/s. A.S.Kailasam & Associates (for R3)

ORDER

Heard Mrs. S.R.Sumathy, Learned Counsel for the Petitioner, Mr. K.Karthikeyan, Learned Government Advocate appearing for the First and Second Respondents and Mr. A.K.Sriram, Learned Counsel for the Third Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition challenges the order dated 05.04.2011 in A.P. No. 81/2010 D2 passed by the First Respondent dismissing the appeal filed by the Petitioner challenging the appointment of Fit Person for Sri Kailasanathaswami Temple, Kodamangalam, Nannilam Taluk under Section 54(3) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (hereinafter referred to as 'the Act' for short).



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3. During the pendency of the appeal before the First Respondent, there had been an interim stay of the said order which was vacated at the time of passing final orders therein. It is evident from the impugned order dated 05.04.2011 in A.P. No. 81/2010 D2 that the Joint Commissioner, Thanjavur was directed to pass final orders in the Miscellaneous Petition in R.C. No. 8792 of 1998 C1 under Section 54(1) of the Act. However, on account of interim order passed in this Writ Petition, no further orders have been passed by the Joint Commissioner, Thanjavur and the matter has now been transferred to the file of Joint Commissioner, Nagapattinam and that an enquiry in the said Miscellaneous Petitioner has been fixed on 04.11.2022 for which notice has been sent to the concerned parties.

4. Having regard to the subsequent events, there does not appear to be any necessity to interfere with the impugned order dated 05.04.2011 in A.P. No. 81/2010 D2 insofar as it requires the Joint Commissioner, Thanjavur, to pass final orders in the Miscellaneous Petition in R.C. No. 8792 of 1998 C1 under Section 54(1) of the Act and Learned Counsel for the Petitioner also agrees that the Petitioner would appear before the Joint Commissioner, Nagapattinam on the hearing on 04.11.2022 in that regard. However, it is contended that the Petitioner is aggrieved by vacation of the interim stay of the



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order of appointment of the Fit Person, but on account of the interim order passed in this Writ Petition, it is informed that no Fit Person has assumed charge till date. In such circumstances, *status quo* prevailing as on date shall be maintained by the parties till the Miscellaneous Petition before the Joint Commissioner, Nagapattinam is finally disposed. It shall be incumbent upon the Joint Commissioner, Nagapattinam to afford full opportunity of personal hearing to the Petitioner and all other persons concerned and pass a reasoned order dealing with each of the contentions raised on merits and in accordance with law and communicate the decision taken under written acknowledgment. The report of compliance of such exercise shall be filed by 31.01.2023 before the Registrar (Judicial) of the Court.

5. In the result, the Writ Petition is disposed on the aforesaid terms. No costs.

27.10.2022

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Index: Yes/No

Note: Issue order copy by 03.01.2023.



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To

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Copy to

The Registrar (Judicial),
High Court of Madras,
Chennai – 600 104.



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P.D. AUDIKESAVALU, J.

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