IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

WP.No.3619 of 2021 &

W.M.P.Nos.4153, 4154 & 4156 of 2021

1. A.Thanikachalam
2. A.Vinayagam
3. Palanivel ... Petitioners

Vs

1. The Commissioner,
Hindu Religious and Charitable Endowments Department,
Chennai – 600 034.

2. The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Chennai – 600 030.

3. The Fit Person/Edecutive Officer,
Arulmigu Kandasamy Thirukoil,
Thiruporur, Chengalpet District. ... Respondents

Prayer:- Writ Petition filed under the Article 226 of Constitution of India, to issue a Writ of Certiorari calling for the records relating to the impugned proceedings of the second respondent dated 11.11.2020 in proceedings SE.MU.No.4626/2020/E1 and the letter dated 12.11.2020 of the third respondent herein and quash the same.

For Petitioners : Mrs.AL.Ganthimathi

For Respondents : Mr.N.R.R.Arun Natarajan
Spl. Government Pleader [HR&CE]
- R1 & R2
Mr.S.Suriya
for M/s.Kailasam Associates – R3

ORDER

This Writ Petition has been filed challenging the impugned proceedings of the second respondent dated 11.11.2020 appointing a fit person in respect of the performance of the 6th day Yanai Vagana Kattalai attached to Sri Kandasamy Temple, Thiruporur, Chengalpet District.

2. It is the case of the petitioners that the first and second petitioners are sons of Late V.Anandan and they are entitled to the office of Hereditary Trustees of 6th day Yanai Vagana Kattalai attached to Sri Kandasamy Temple, Thiruporur, Chengalpet District. Originally, by an Order dated

10.04.1978 in O.A.No.48 of 1977, totally 6 persons have been declared as hereditary trustees and except the third petitioner other trustees have already died. The first and second petitioners being the sons of one of the hereditary trustee, viz., V.Anandan Mudaliar, they are entitled to be appointed as trustees under succession. It is their further contention that a charge has been created on the properties in Survey No.36/0 and 24/36 of Pammal Village for the purpose of performing the 6th day Yanai Vagana Kattatali attached to sri Kandasamy Temple, Thiruporur. It is specifically stated that out of the income from the said properties, the said Kattalai has to be performed. However, the second respondent has issued a show cause notice dated 02.07.2020 claiming that the property itself belongs to the temple for the purpose of performance of the aforesaid Kattalai and the trustees have let out the properties without any approval of the Commissioner and they have been enjoying the properties as if they are using the income from the properties for themselves and called upon the Trustees to show cause why departmental action, as per the provisions under the Tamil Nadu Hindu Religions and Charitable Endowments Act cannot be taken. Later by a proceedings dated 11.11.2020, the only exiting Trustee, the third petitioner herein has been called upon to appear for an enquiry with the documents on

10.12.2020. In the meanwhile, the third petitioner has been suspended and a fit person has been appointed. Challenging the same, the present Writ petition has been filed.

3. It is the case of the respondents that the income derived from the property is being used for performance of the Kattalai. The property situate in Survey No.34/36 has been leased out to 18 private individuals by the first and second petitioners and a paltry sum of Rs.7/- is being collected towards monthly rent. Similarly, the suit filed in O.S.No.3148 of 1997 by the private individuals and the then hereditary trustees has been dismissed by the Munsif Court, Alandur by a judgment dated 25.04.2018. The first and second petitioners are collecting rent from the private individuals and the income is neither accounted nor audited. According to them, the property has been dedicated to the temple. Some of the property has been mismanaged and the properties have also been dealt with by leasing out for more than 5 years without the permission from the respondents. Various mismanagement charges have also been framed against the existing trustees and serious charges of forgery in respect of other temples. Hence, Fit Person has been appointed only to manage the temple.

4. The learned counsel appearing for the petitioner though submitted that the Kattalai is being performed regularly by the hereditary trustees, it is her contention that a charge has been created in favour of the temple and it has been specifically stated that out of the income from the said properties, the said Kattalai has to be performed. It is her further submission that the issue of dedication of the temple property shall be kept open and she will agitate the same under a separate proceedings under section 63[b] of Tamil Nadu Hindu Religions and Charitable Endowments Act. However, she would submit that the petitioners may be permitted to continue to perform the Kattalai along with the Fit Person.

5. Whereas, the learned counsel appearing for the respondents would submit that the third petitioner alone has been recognized as a trustee against whom charges have been framed for mismanaging the temple properties and mishandling the income from the property and he was placed under suspension. At that time, the Fit Person has been appointed to manage the affairs of the temple. As far as the first and second petitioners are concerned, they are not yet been recognized as trustees and their

application for appointing them as trustees is pending. Hence, opposed the Writ Petition.

6. It is not in dispute that the third petitioner is the only existing trustee and he has been recognized as trustee in the year 1977, against whom show cause notice has been issued and charges have been framed for not accounting the income and he was also placed under suspension. It is relevant to note that the income derived from the property has not been properly accounted and a minimum sum of Rs.7/- has been collected as rent from the lessees.

7. When the charges of mishandling of money is pending and the trustee has been placed under suspension, this Court is of the view that to manage the affairs of the temple, appointing of a Fit Person cannot be faulted. It is to be noted that a Fit Person has been appointed by the Joint Commissioner pending disposal of the charges framed against the third petitioner as per Section 53[4] of the Tamil Nadu Hindu Religions and Charitable Endowments Act. Only one trustee is available, against whom charges have been framed and he is also placed under suspension, except

appointing a Fit Person to manage the affairs of the temple, the management of the temple cannot be given to third parties, who have not been recognized as trustees as per the Tamil Nadu Hindu Religions and Charitable Endowments Act. The petitioners 1 and 2 claims to be trustees on succession and their right has not been crystallized and their application is pending for consideration by the authorities. Till their right has been crystallized and recognized as trustees as per the Tamil Nadu Hindu Religions and Charitable Endowments Act, the management or the affairs of the temple cannot be vested with those persons. In such view of the matter, I do not find any merits in this Writ Petition.

8. At this sage, the learned counsel appearing for the petitioner requested that a direction may be given to the respondents to dispose of the application pending for appointing the first and second petitioners as trustees in the next line of succession as per the scheme. It is not disputed by the respondents that such an application is pending.

9. In such view of the matter, the second respondent is directed to dispose of the application given by the first and second petitioners in April

2019 within a period of three months from the date of receipt of a copy of this Order. Similarly, the second respondent is also directed to conclude the enquiry as against the third petitioner within a period of three months from the date of a receipt of a copy of this Order.

10. With the above directions, this Writ Petition is dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

16.12.2022

vrc

To

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   Chennai – 600 034.

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N.SATHISH KUMAR, J.

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