



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **21.02.2022**

CORAM:

THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

W.P. (MD) No.7699 of 2010

and

W.M.P. (MD) Nos.2 of 2010 and 6474 of 2017

WEB COPY

J.Jakkiah Muthuvelu

1.Kamuthilagam

2.J.Rajamurugan

3.Ravikumaran

4.Sakthiumaibalan

(Petitioners 1 to 4 have been impleaded
vide order dated 24.02.17 in WMP(MD).2276 of 2017)
... Petitioners

/vs./

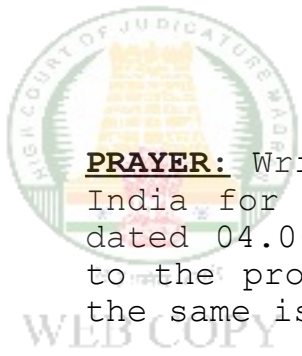
1.The Joint Commissioner,
Hindu Religious and Charitable Endowment
Admn. Department.
No.1, East Chithirai Street,
Madurai.

2.The Executive Officer,
Arulmighu Suyambu
Saneeswarabhgavan Temple,
Kutchanur,
Theni District.

3. The Executive Officer,
Arulmigu Moongilannai Kamatchi Amman Temple,
Devadanapatty, Theni District.

4.The Executive Officer,
Arulmighu Kambarayaperumal Temple,
Cumbum, Theni District.

(R3 and R4 have been impleaded
vide order dated 24.02.2017 in WMP(MD).1 of 2012 and
WMP(MD).6473 of 2017 dated 08.03.2019 respectively).
.. Respondents



PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records dated 04.06.2010 on the file of the 1st respondent herein, relating to the proceedings in Se.Mu.Na.Ka.No.2705/10/B1 quash the same, as the same is arbitrary ultra vires.

For Petitioner: Mr.P.Sivasubramanian

For R1 : Mr.P.Subbaraj
Special Government Pleader

For R2 & R4 : No appearance

For R3 : Mr.S.Manohar

ORDER

The writ petition has been filed for a Certiorari, calling for the records dated 04.06.2010 on the file of the 1st respondent in Se.Mu.Na.Ka.No.2705/10/B1 and quash the same.

2.During the pendency of the writ petition, the petitioner, namely J.Jakkiah Muthuvelu died and thereafter, the legal heirs of the deceased petitioner, namely, wife and three sons, have been impleaded as petitioners 2 to 4 to represent the interest of the deceased petitioner.

3.The case of the petitioners in this writ petition is that the 2nd respondent has been simply appointed as a Fit Person, vide the impugned order dated 04.06.2010, under Section 54 (3) of the HR & CE Act, 1959 (*herein after referred to as Act*). It is submitted that neither the deceased petitioner was suspended nor removed from trusteeship and therefore, the impugned order passed by the 1st respondent appointing a Fit Person was bad in law.

4.The learned counsel for the petitioner states that as per the Act, the person next in the line is entitled to succeed to the office of the trustee, in terms of Section 54 (1) (3) of the Act. It is submitted that since there were other persons ie., the wife and three sons of the petitioner, who were entitled to succeed to the office of the trustee, the necessity for appointing a Fit Person under Section 54 (3) of the Act was without jurisdiction apart from the fact that the order was passed in violating the principles of natural justice.

5.The learned counsel for the petitioner further submits that the deceased petitioner's wife, namely, Kamuthilagam, has given a representation to the 1st respondent to recognize her as the hereditary trustee after the demise of her husband, J.Jakkiah Muthuvelu.



6.The learned Special Government Pleader for the 1st respondent submits that the petitioners have an alternate remedy under Section 54 of the Act before the Commissioner and therefore, the writ petition is liable to be dismissed.

WEB COPY

7.I have heard the rival arguments advanced by the learned counsel for the petitioner and the learned Special Government Pleader for the 1st respondent.

8.If the deceased petitioner, J.Jakkiah Muthuvelu attracted the sting under Section 54 sub-Clause (2) of the Act, he was liable to be suspended or removed, in which case the Department had an option to appoint a Fit Person on a temporary basis. Under Section 54 (1) of the Act, wherever a permanent vacancy occurs to the office of the hereditary trustee of the petitioners' religious institution, the next in line of the succession is entitled to succeed to the office of the hereditary trustee.

9.In this case, the impugned order was passed on 04.06.2010. Eleven years have lapsed since then. The petitioner, namely, J.Jakkiah Muthuvelu has also died. The petitioner, J.Jakkiah Muthuvelu died unaware of the fact that whether he was suspended or removed from trusteeship. The only inference that can be drawn is that the deceased petitioner was suspended and a Fit Person was appointed for managing the affairs of the temple. Suspension can not continue eternally.

10.Considering the fact that there were other members from the family, who were entitled to succeed to the office of the hereditary trustee in terms of Section 54 of the Act, this writ petition stands allowed, by quashing the impugned order dated 04.06.2010 of the 1st respondent and by directing the 1st respondent to recognize the successors of the deceased petitioner, namely, Kamuthilagam as the hereditary trustee in terms of Section 54 of the Act. In case, there are any other circumstances warranting appointment of a Fit Person, appropriate notice shall be issued to them and thereafter, decision shall be taken. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AD-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

mm



To

The Joint Commissioner,
Hindu Religious and Charitable Endowment
Admn. Department.
No.1, East Chithirai Street,
Madurai.

+1 CC to M/s.SPL GP (SR-7749[F] dated 22/02/2022)

+1 CC to M/s.P.SIVA SUBRAMANIAN, Advocate (SR-7705[F] dated
22/02/2022)

W.P. (MD) No. 7699 of 2010
21.02.2022

sb(CO)
TR(16.03.2022) 4P 4C