



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **19.04.2022**

CORAM:

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

W.P. (MD) No.16741 of 2013

and

M.P. (MD) Nos.1 to 3 of 2013

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1.The Idol of Arulmighu Sri
Vadabadrakaliamman Private Temple and
Trust represented by its Hereditary
Poojakar and trustee Dr.M.Deivasigamani Swamigal, (late)
No.24-B, Kalliammankovil Street,
Chinthamani, Tiruchirappalli-2.

2.D.Anjalai

... Petitioners

(2nd petitioner is substituted
for deceased sole petitioner
vide order dated 08.09.2016
made in WMP (MD) No.10552/2016)

Vs.

1.The Hindu Religious and Charitable Endowment,
Represented by its Commissioner,
Chennai.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowment,
Tiruchirappalli.

3.The Assistant Commissioner,
Hindu Religious and Charitable Endowment,
Rockfort,
Tiruchirappalli-2.

4.The Executive Officer,
Bairavanatha Swami Temple,
Tiruchirappalli-8.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the third respondent in Se.Mu.Ka.No.3125/13/A5, dated 27.09.2013 and quash the same and consequently forbearing the respondents from intervening with the peaceful possession and enjoyment of the petitioner temple in any manner whatsoever.



For Petitioner : Mr.J.Maria Roseline
For R1 to R3 : Mr.P.Subbaraj
Special Government Pleader.
For R4 : M/s.S.Devasena

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ORDER

The petitioner has filed this writ petition for a Certiorari to quash order of the 3rd respondent in Se.Mu.Ka.No.3125/13/A5, dated 27.09.2013.

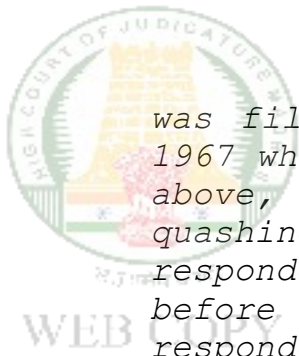
2.The writ petition was disposed of on 04.04.2022 after hearing the learned counsel for the petitioner, learned Special Government Pleader for the respondents 1 to 3 and the learned counsel for the 4th respondent with the following observations:-

"The petitioner has filed this writ petition for a Certiorarified Mandamus, to call for the records of the third respondent in Se.Mu.Ka.No.3125/13/A5, dated 27.09.2013 and quash the same and consequently forbearing the respondents from intervening with the peaceful possession and enjoyment of the petitioner temple.

2. After hearing the learned Counsel for the petitioner and the official respondent, this writ petition is taken up for final hearing. The petitioner had challenged impugned order, dated 27.09.2013 of the third respondent appointing the fourth respondent as a fit person of Arulmigu Sri Vadabadrakaliamman Temple located in No.24B Kaliamman Kovil Street, Cinthamani, Trichy-2. It is the specific case of the petitioner that the Temple, which is a private Temple and the Temple is situated in a patta land belong to the founder namely, Dharmalingam Pillai.

3. The learned Counsel for the petitioner further submits that a suit in this connection was filed as early as 1967 in O.S.No.152 of 1967 and that the suit was decreed as prayed for wherein, the third respondent herein was also a defendant. It is submitted that despite the same, the third respondent has proceeded to appoint the fourth respondent as the fit person based on a report of an Inspector, dated 27.09.2013, copy which was also not furnished to the petitioner. It is further the case of the petitioner that the petitioner had also sent a legal notice on 04.11.2008 and despite the same impugned order has been passed.

4. The learned Special Government Pleader for the official respondent is unable to confirm whether any appeal



was filed against the judgment and decree in O.S.No.152 of 1967 which came to be decreed on 02.02.1971. Considering the above, I am inclined to dispose of this writ petition by quashing the impugned order with liberty to the third respondent to issue appropriate notice to the petitioner before proceeding to appoint a fit person. The third respondent shall consider the judgment and decree of the trial Court namely, the District Munsif Court at Trichy in O.S.No.152 of 1967 vide judgment and decree, dated 02.02.1971 before taking a decision as to whether it is a fit case for appointing a fit person under the provisions of the Hindu Religious and Charitable Endowments Act.

5. The writ petition stands allowed in terms of the above observations. No costs. Consequently, connected Miscellaneous Petitions are closed."

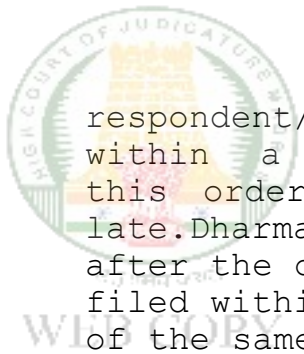
3.After the order was passed, the learned counsel for the 4th respondent represented that there is an attempt to use the temple property by the petitioner, who claims herself to be the wife of the deceased petitioner/self styled hereditary trustee, Dr.M.Deivasigamani Swamigal.

4.Today, the learned counsel for the petitioner has produced the photographs to show that the temple property has become inaccessible and the petitioner and her daughters are residing in front of the temple by making the temple inaccessible. It is submitted that they are not only using it as a place for shelter but also using it as a kitchen for cooking food and for drying their cloths. It is submitted that there is also a doubt as to whether the 2nd petitioner, who has been impleaded after the death of M.Deivasigamani Swamigal, was the wife of Dharmalingam Pillai.

5.According to the learned counsel for the 4th respondent, the deceased 1st petitioner is now represented by D.Anjalai was working as a Sweeper and was not the wife of the deceased petitioner late. M.Deivasigamani Swamigal, who himself was a self styled and a self declared hereditary trustee without any authority of law.

6.After hearing the learned counsel for the petitioner, learned counsel for the official respondents and the learned counsel for the 4th respondent, I am inclined to recall the order dated 04.04.2022 and dispose of this writ petition by permitting the 2nd petitioner to file an appropriate application under Section 54 of the HR & CE Act, 1959. It is open for the 2nd petitioner to establish her credentials that she is the wife of Dharmalingam Pillai, who was appointed as the hereditary trustee after the death of Kandhasamy Pillai.

7.The above writ petition thus stands disposed by permitting the 2nd petitioner to file appropriate application before the 2nd
<https://hcservices.ecourts.gov.in/hcservices/>



respondent/the Joint Commissioner under Section 54 of the Act, within a period of 30 days from the date of receipt of a copy of this order, to recognize her rights to step into the shoes of late.Dharmalingam Pillai, who was said to be the hereditary trustee, after the death of late.Kandhasamy Pillai. If such an application is filed within such time, the 2nd respondent shall consider and dispose of the same on merits and in accordance with law as expeditiously as possible preferably within a period of 6 months from the date of receipt of a copy of this order. All further rights of the petitioners shall be subject to the final outcome of the proposed petition. The petitioners shall vacate the temple within a period of 15 days from the date of receipt of a copy of this order and the management of the said temple shall stand vested with the 4th respondent till such application to be filed by the petitioners is disposed of by the 2nd respondent/the Joint Commissioner.

8.The writ petition stands disposed of in terms of the above observation. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2022

Sub Assistant Registrar(CS)

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To

1.The Commissioner,
Hindu Religious and Charitable Endowment, Chennai.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowment,
Tiruchirappalli.

3.The Assistant Commissioner,
Hindu Religious and Charitable Endowment,
Rockfort, Tiruchirappalli-2.

+1 CC to M/s.S. DEVASENA, Advocate (SR-19442[F] dated 19/04/2022)

+1 CC to M/s.SPL.GP. (SR-19774[F] dated 20/04/2022)

W.P. (MD) No.16741 of 2013
19.04.2022

RK(25/05/2022) 4P 6C