



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.06.2022

CORAM:

**THE HONOURABLE MR.JUSTICE S.S. SUNDAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

W.A. (MD) .Nos.336 and 385 of 2022
and

C.M.P (MD) Nos.3366,3368 and 3933 of 2022

W.A(MD)No.336 of 2022

1.C.Saravanamuthu

2.S.Ajith Kumar

.. Appellants/8&9 Respondents

Vs

1.R.Udhaya Kumar(Oor Gounder)

2.T.s.Thirumalai(Thalavai Gounder)

3.P.Raju(Nattuk Gounder)

..Respondents 1 to 3/Petitioners

4.The District Collector,
Dindigul District.

5.The District Revenue Officer,
Dindigul District.

6.The Revenue Divisional Officer,
Dindigul.

7.The Tahsildar,
Natham Taluk,
Dindigul District.

8.The Joint Commissioner,
Hindu Religious and Charitable Endowment
Madurai.

9.The Assistant Commissioner,
Hindu Religious and Charitable Endowment
Dindigul.

10.The Executive Officer,
Arulmigu Thirumogur Kalamega
Perumal Temple, Madurai,
As incharge Kailasanathar Temple,
Natham.

11.M.Suruli

12.Tamilvannan

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13.Murugan
14.R.Chinnamuthu
15.Kalaiarasan
16.M.Ganesan
17.Senthil
18.K.Chandramuthu
19.K.Muthuraj
20.K.Lala Krishnan
21.Thangavel
22.Rajiv Gandhi
23.Murugan
24.V.Durai
25.V.Dhanagncheyan
26.S.Selvam
27.K.Suruli
28.Kannan
29.S.Poosaithurai
30.K.Mani

... Respondents 4 to 30/

Respondents 1 to 7 & 10 to 29

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, against the order passed by this Court in W.P(MD)No.21077 of 2019 dated 18.03.2022.

Prayer in WP(MD). 21077/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to Directing the 5 and 6 to appoint a fit person or an adhoc committee for management of the Arulmigu Mahalakshmi Amman Temple Sendurai, Natham Tk., Dindigul District, till aproper scheme is framed/suitable trustee is appointed and further direct suitable action to be taken against the respondents 8 and 9 with respect to the sale of the temple lands by them and to secure the properties in S.No.345/1A, 345/1B, 345/1C, 346/2 and 353/2 of Senthurai Village, Natham Taluk, Dindigul District from the private respondents and also for further directions to respondents 1 to 4 to further restore the revenue records of the properties in the name of the Arulmighu Mahalakshmi Amman Temple, Senthurai within a stipulate time.

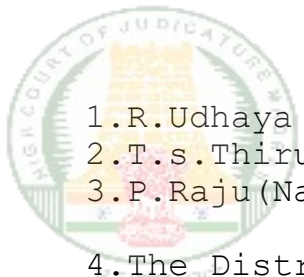
For Petitioner : Mr.R.G.Sankar Ganesh
For R1 and 2 : Mr.H.Laksmishankar
For R4 to R9 : Mr.P.T.Thiraviyam
Government Advocate
For R10 : Mr.C.Guhaseelarupan

W.A(MD)No.385 of 2022

Rasathi

.. Appellant/Proposed Party

Vs.



- 1.R.Udhaya Kumar(Oor Gounder)
- 2.T.s.Thirumalai(Thalavai Gounder)
- 3.P.Raju(Nattuk Gounder)

..Respondents 1 to 3/Petitioners

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17.Kalaiarasan

18.M.Ganesan

19.Senthil

20.K.Chandramuthu

21.K.Muthuraj

22.K.Lala Krishnan

23.Thangavel

24.Rajiv Gandhi

25.Murugan

26.V.Durai

27.V.Dhanagncheyan

28.S.Selvam

29.K.Suruli



31.S.Poosaithurai

32.K.Mani

... Respondents 4 to 32/

Respondents 1 to 29

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For Petitioner : Mr.T.Pon Ramkumar

For R1 and 2 : Mr.H.Laksmishankar

For R4 to R9 : Mr.P.T.Thiraviyam
Government Advocate

For R10 : Mr.C.Guhaseelarupan

For R11to19, 29

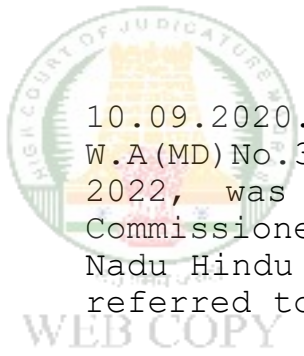
21 to 26,31 : No appearance

COMMON JUDGMENT

(Judgment of the Court was made by S.S.SUNDAR.J.,)

These two writ appeals have been filed against the same order passed by the learned Single Judge of this Court in W.P(MD)No.21077 of 2019 dated 18.03.2022.

2. The appellant in W.A(MD)No.336 of 2022 was appointed as a hereditary trustee of the temple known as "Arulmigu Mahalakshi Amman Temple, Senthurai, Natham Taluk, Dindigul District". The writ petition in W.P(MD)No.21077 of 2019 came to be filed for issuance of a writ of Mandamus directing the respondents 5 and 6 in the writ petition to appoint a Fit Person or an Adhoc Committee for the management of the Arulmigu Malahlakshmi Amman Temple, Sendurai, Natham Taluk, Dindigul District. In the said writ petition, several allegations were made against the hereditary trustee, viz., the appellant in W.A(MD)No.336 of 2022. It is not in dispute that during the pendency of the writ petition, the appellant in W.A(MD)No.336 of 2022 was removed from hereditary trusteeship, by an order dated



10.09.2020. It is also admitted that the wife of the appellant in W.A(MD)No.336 of 2022 who is also the appellant in W.A(MD)No.385 of 2022, was appointed as a hereditary trustee by order of Joint Commissioner, HR&CE, dated 10.09.2020, under Section 5(2) of Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959(hereinafter referred to as 'the Act').

3. The appellant in W.A(MD)No.336 of 2022 has filed an appeal as against his removal from hereditary Trusteeship. Even though the appellant in W.A(MD)No.385 of 2022 was appointed as hereditary Trusteeship as a person in line of succession, by order dated 10.09.2020, the writ petition was disposed of by the learned Single Judge without even impleading the hereditary trustee as per the proceedings of the Joint Commissioner, dated 10.09.2020. By order impugned in the writ petition, the HR&CE Department was directed to take immediate steps to appoint a Fit Person, who will take charge of the temple and to administer the same. The learned Single Judge further directed the official respondents to pass appropriate orders within a period of 30 days.

4.The learned counsel appearing for the appellant in W.A(MD) No.385 of 2022 submitted that the appellant in W.A(MD)No.336 of 2022 is no more a hereditary trustee of the temple and that she was appointed as hereditary trustee under Section 54(2) of the Act. She being the only person succeeded to the office of hereditaryship, entitled to administer the temple as a hereditary trustee in her own right. Merely because her husband was disqualified, she is not disqualified. It is admitted that on the application filed by the father of the appellant in W.A(MD)No.336 of 2022 he was appointed as a hereditary trustee by declaring the office as hereditary, by proceedings of the Joint Commissioner dated 26.08.1991. This order was passed under Section 63(b) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. After his father died on 26.12.2013, the appellant in W.A(MD)No.336 of 2022 was continued as a hereditary trustee as a defacto-trustee. He also filed an application to appoint him as a hereditary trustee as a person next in the line of succession to his father. However, that application was dismissed holding that he has done some irregularities, during the tenure as a trustee. Challenging the said order, the appellant in W.A(MD)No.336 of 2022 has preferred an appeal before the Commissioner. After availing the statutory remedy, the appellant in W.A(MD)No.336 of 2022 has no *locus standi* to maintain the appeal against the order of the learned Single Judge directing to appoint a Fit Person in the temple for proper administration of the temple. Giving liberty to the appellant in W.A(MD)No.336 of 2022 pursue his appeal remedy, which is a statutory remedy available to him, writ appeal in W.A(MD)No.336 of 2022 is dismissed.

5.However, the fact that the appellant in W.A(MD)No.385 of 2022 has been appointed as hereditary trustee, by proceedings dated 10.09.2020 issued by the Joint Commissioner in reference



குடிசைமுதுகள்ள; .6031/2020/ஆ1, is not in dispute.

6.Very strangely, the fact that the appellant in W.A(MD) No.385 of 2022 has been appointed as a hereditary trustee is not even brought to the notice of this Court. The learned Single Judge is under the impression that the appellant was appointed as hereditary trustee by her husband, who is the appellant in W.A(MD) No.336 of 2022. In these circumstances, the appellant is an aggrieved person and the order passed without hearing the appellant is irregular. Whether the appellant in W.A(MD)No.385 of 2022 is a hereditary trustee, is not an issue before this Court and appointment as a hereditary trustee is not put under challenge in any proceeding and hence, this Court is unable to sustain the order of the learned Single Judge. It is true that the appellant/husband has been accused of several charges and he might have committed breach of trust. However, the order appointing the appellant/wife independently by the Joint Commissioner cannot be set aside and the HR&CE Department cannot simply be directed to appoint a Fit Person when there is a hereditary trustees in office. Therefore, the order of the learned Single Judge passed in W.P(MD)No.21077 of 2019 is set aside. It is open to any of the respondents to challenge the order appointing the appellant as a hereditary trustee, in the manner known to law. Accordingly, W.A(MD)No.385 of 2022 is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/07/2022

Sub Assistant Registrar(CS)

To

- 1.The District Collector,
Dindigul District.
- 2.The District Revenue Officer,
Dindigul District.
- 3.The Revenue Divisional Officer,
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- 4.The Tahsildar,
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Dindigul District.
- 5.The Joint Commissioner,
Hindu Religious and Charitable Endowment
Madurai.



6.The Assistant Commissioner,
Hindu Religious and Charitable Endowment
Dindigul.

+1 CC to M/s.H. LAKSHMI SHANKAR, Advocate (SR-27379[F] dated
22/06/2022)

+1 CC to M/s.C. GUHASEELARUPAN, Advocate (SR-27590[F] dated
23/06/2022)

+1 CC to M/s.SPL.GP (SR-27402[F] dated 22/06/2022)

+1 CC to M/s.R.G. SHANKARGANESH, Advocate (SR-27565[F] dated
22/06/2022)

W.A. (MD) .Nos.336 and 385 of 2022
and
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21.06.2022

SRK(CO)
KB(04.07.2022) 7P 11C