



W.P.(MD) No.14002 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P.(MD) No.14002 of 2022

R.Sivalingaraja

... Petitioner

VS.

1.The Commissioner,
Hindu Religious and Charitable Endowment Department,
Office at No.119, Uthamar Gandhi Salai,
Nungambakkam, Chennai-600 034.

2.The Joint Commissioner,
HR & CE Department,
KS Kumaran Muthusamy Nagar,
CB Colony, Sivagangai,
Sivagangai District-630 562.

3.The Assistant Commissioner,
HR & CE Department,
Paramakudi, Ramanathapuram District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the second respondent herein to take appropriate action on the representation of the petitioner, dated 20.02.2018 and the communication of the first respondent herein issued in Na.Ka.No. 19272/2022-1/A2, dated 28.04.2022 to appoint as Trustee in the Board of Trustees for the temple called Arulmighu Seruvalinga Ayyanar Temple, Esanur,



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Sivagangai Taluk, Sivagangai District within a time stipulated which may be fixed by this Court.

For Petitioner : Mr.K.P.Krishna Doss

For Respondents : Mr.P.T.Thiraviam
Government Advocate

ORDER

The writ petition has been filed in the nature of Writ of Mandamus, seeking a direction to the second respondent herein to take appropriate action on the representation of the petitioner, dated 20.02.2018 and the communication of the first respondent issued in Na.Ka.No.19272/2022-1/A2, dated 28.04.2022 to appoint as Trustee in the Board of Trustees for the temple called Arulmighu Seruvalinga Ayyanar Temple, Esanur, Sivagangai Taluk, Sivagangai District within a time stipulated which may be fixed by this Court.

2.The grievance of the petitioner is that the petitioner is the brother's son of one Rama Kone, who is the grandfather of the petitioner, who was declared as hereditary trustee by the Deputy Commissioner, HR & CE Department, Madurai, in O.A.No.84 of 1977, dated 08.05.1978. Thereafter, his grandfather passed away



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on 24.06.2016. Since there was no male descendents to the deceased Rama Kone, the hereditary trusteeship was lying vacant. Thereafter, in the line of succession, the deceased's wife Tmt.Thiraliyammal and her daughter Tmt.Kasithavam are only the legal heirs, who have given “No Objection Certificate” for the petitioner to be declared as hereditary trustee for the above said temple. Hence, the petitioner has succeeded as legal heir of his grandfather and now entitled for hereditary trustee to be declared in the said temple. The petitioner is the Ramakone's brother's son, he is the class II legal heir. Hence, the petitioner can be declared as hereditary trustee of the said temple. Thereafter, he had given a petition to the third respondent/Assistant Commissioner of HR & CE on 20.02.2018. Following the same, the third respondent in Na.Ka.No. 4006/2019/A8, dated 05.11.2019 had conducted an enquiry through the Inspector of HR & CE department. Thereafter, what happened is not known. The petitioner had sent a representation to the temple authorities on 24.03.2022, no action has been taken. Hence, the petitioner filed the present petition with the above said prayer.

3.Mr.P.T.Thiraviam, learned Government Advocate appearing for the respondents would submit that the petitioner is not a class I legal heir, to be



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automatically declared as hereditary trustee. According to the petitioner, he appears to be a class II legal heir, for which, an enquiry to be conducted and prior to it appropriate petition to be filed before the second respondent/Joint Commissioner, who has to take the plaint on file, issue notice, cause enquiry and thereafter, pass appropriate orders. In the event of the petitioner is qualified to be declared as hereditary trustee, as legal heir of his grandfather, Rama Kone, appropriate orders will be passed.

4. Heard the learned counsel on either side and perused the materials available on record.

5. It is seen that the petitioner claims to be declared as hereditary trustee in the said temple, for the reason that no male descendents to his grandfather's family available. The petitioner is directed to file appropriate petition before the second respondent/Joint Commissioner along with the supporting documents. Thereafter, the second respondent/Joint Commissioner following procedure to pass appropriate orders as per law.



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Index : Yes / No

Internet : Yes / No

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To

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M.NIRMAL KUMAR, J.

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and
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