



W.P.(MD)No.15405 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 25.07.2022

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THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Writ Petition (MD) No.15405 of 2022

1.P.Pon Venkatesh Kumar
2.G.Vairamuthu

.. Petitioners

Versus

1.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Madurai.

2.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Virudhunagar.

3.P.Sivasankaran Pillai

.. Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the second respondent to conduct election of the Managing Trustee of Arulmighu Sivasubramaniaswamy Thirukoil, Sevanthipatti, Srivilliputhur Taluk, Virudhunagar District, by considering the request dated 08.06.2022, made by the petitioners.

For Petitioners : Mr.Vallinayagam
Senior Counsel
for Mr.P.Arun Jayatram

For R1 & R2 : Mr.P.T.Thiraviam
Government Advocate



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For R3

: Mr.VR.Shanmuganathan

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ORDER

The petitioners, who claim to be non-hereditary trustees of Arulmigu Sivasubramaniaswamy Temple, Sevanthipatti, Srivilliputhur Taluk, had sent a representation to the Temple authorities stating that on 06.01.2022, the first respondent/Joint Commissioner had appointed them as non-hereditary trustees. It is a scheme Temple, where both the hereditary trustees and non-hereditary trustees function as Board of Trustees. The hereditary trustee – P.Sivasankaran Pillai, the third respondent herein, had not acknowledged the petitioners and not co-operating with the petitioners and hence, there is no board meeting held and no activities for the Temple could be made. The third respondent/hereditary trustee has been acting on his own, hence, they sent a representation. Thereafter, no action has been taken. Hence, the Writ Petition.

2.The learned Senior Counsel appearing for the petitioners submits that the Temple is a public Temple worshipping by seven nearby Villagers, namely, Mamsapuram, Thulukankulam, Kanagakulam, Vaithiyalingapuram, Ayanapuram, Samusikapuram and Sevanthipatti and there are lot of followers to the Temple. The third respondent, being adamant, had earlier co-operated with the Temple authorities and appointed Trustees.



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3.The learned counsel for the third respondent submits that the third respondent has been declared as hereditary trustee of the Temple in pursuant to the scheme decree framed in O.S.No.34 of 1922 by the learned Additional Subordinate Judge, Ramnad at Madurai. The first respondent herein in his proceedings in Se.Mu.Na.Ka.No.8872/2021/A1, dated 06.01.2022, appointed the petitioners as non-hereditary trustees of the Temple. The petitioners make their claim that they had taken charge on 24.01.2022 pursuant to the order passed by the second respondent. The third respondent earlier filed W.P. (MD)No.1666 of 2022 challenging the order dated 06.01.2022, made by the first respondent, which was dismissed, against which, the third respondent filed W.A.(MD)No.142 of 2022, which is pending.

4.The learned counsel for the third respondent further submits that the petitioners herein do not qualify as per the scheme decree passed by the learned Additional Subordinate Judge. The official respondents without following the scheme decree framed by the learned Additional Subordinate Judge, appointed the petitioners, who did not possess the specific criteria. Hence, he opposed this Writ Petition.

5.The learned Government Advocate appearing for the respondents 1 and 2 submits that as per the scheme decree of the Temple framed by the



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learned Additional Subordinate Judge, the Temple has to be managed by both the hereditary trustee and non-hereditary trustees with a condition that the hereditary trustee alone will be the managing trustee of the Board of Trustees. Further, applications were called for appointment of non-hereditary trustees. Thereafter, the petitioners' applications were scrutinized and the petitioners herein were appointed as non-hereditary trustees. The third respondent was not willing to accept the appointment of the petitioners and had challenged the same before this Court in W.P.(MD)No.1666 of 2022 and the same was dismissed by this Court, by order dated 31.01.2022, against which, the third respondent had filed W.A.(MD)No.142 of 2022, which is pending. The respondents have entered their appearance in the Writ Appeal, but no order has been passed so far, including interim order. In view of the same, the Temple authorities would take appropriate steps for considering the petitioners' representation taking the interest of the Temple.

6.Considering the rival submissions and on perusal of the materials, it is seen that the Temple is administered by a scheme decree, wherein the hereditary trustees and non-hereditary trustees are administering the Trust Board. As per the scheme decree framed by the learned Additional Subordinate Judge, Ramnad at Madurai, 11 stipulations have to be followed, of which, stipulation No.2 is that the Temple and its properties shall be



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managed by the Board of Trustees, consisting of one hereditary trustee and two non-hereditary trustees for a term of five years among the members of Vellalar community, residing in the seven Villages namely, Mamsapuram, Thulukkankulam, Kanagakulam, Vaithiyalingapuram, Ayanapuram, Samusikapuram and Sevanthipatti. Further, as per stipulation No.4, the hereditary trustee will be the managing trustee of the board, who shall act according to the views of the majority of the Board and there are other stipulations.

7.The objection of the third respondent is that the petitioners do not belong to Vellalar community as stipulated in the scheme. The further objection of the third respondent is that there was no publication calling for applications for non-hereditary trustees of the seven Villages. The petitioners alone had approached the Temple authorities, gave their applications and straightaway they have been appointed as non-hereditary trustees. Challenging the same, the third respondent filed W.P.(MD)No.1666 of 2022, which was dismissed, against which, he filed W.A.(MD)No.142 of 2022, which is pending. The learned counsel for the third respondent submits that for not following the procedure, the third respondent has got some objections and nothing else. A board meeting is yet to be convened by the second respondent.

In view of the same, Trust Board has been formed to verify as to whether the



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properties of the Temple being properly administered and accounts are properly maintained and steps are taken for the welfare of the devotees.

8.In view of the same, this Court directs the second respondent to convene a meeting and give appropriate directions within a period of two weeks from the date of receipt of a copy of this order.

9.At this juncture, the learned counsel for the petitioners and the learned Government Advocate for the respondents 1 and 2 and the learned counsel for the third respondent undertake that they will take earnest steps for speedy disposal of W.A.(MD)No.142 of 2022 and they shall abide by its decision. Till then the order of this Court shall prevail.

10.Recording the above said submission, this Writ Petition is disposed of. No costs.

25.07.2022

Index : Yes/No
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To

1.The Joint Commissioner,
Mina Religious and Charitable Endowments Department,

<https://www.mhc.tn.gov.in/>



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Madurai.

2.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Virudhunagar.



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M.NIRMAL KUMAR, J.

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Order made in
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