



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.06.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P(MD).No.18081 of 2017

and

W.M.P(MD).Nos.14538 and 14539 of 2017

WEB COPY

P.Kannadasan

... Petitioner

Vs.

The Joint Commissioner,
Tamil Nadu HR &CE Board,
Uthamarkoil,
Trichirappalli.

...Respondent

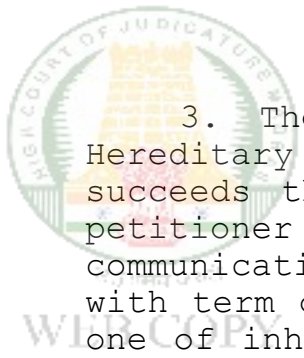
Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent in his proceedings in Na.ka.No.2846/2017/A4, dated 15.05.2017 and quash the same as of no legal consequence and consequently direct the respondent to pass an order under Section 54 (2) of the Tamil Nadu HR & CE Act recognizing the petitioner as the sole hereditary trustee in respect of the Arulmighu Venugopalaswamy Vinayagar, Mariamman, Pattathatchiamman, Palayathal Koonachi Vadamalai Karuppu etc. temple at Maruvathur Village, Thuraiyur Taluk, Trichy District.

For Petitioner : No Appearance
For Respondent : Mr.M.Lingadurai
Special Government Pleader

ORDER

The petitioner seeks to quash the order passed by the respondent in Na.Ka.No.2846/2017/A5, dated 15.05.2017 whereby, directing the petitioner to file a petition under Section 63 (b) of HR&CE Act to get declared himself as Hereditary Trustee and rejecting the petitioner's claim of being recognised as Hereditary Trustee under Section 54 of HR&CE Act.

2. The contention of the petitioner is that there was a small temple in the name of Arulmighu Venugopalasamy Vinayagar, Mariamman, Pattathatchiamman, Palayathal Koonachi Vadamalai Karuppu etc. These temples come under the control of Tamil Nadu HR&CE Department. Prior to coming into force of the HR&CE Act, the Poojari of the temple was functioning as a Trustee of the temple. In those period, the office of the Poojariship and Trusteeship was dual.



3. The petitioner's father, namely, Peruaml functioning as Hereditary Trustee and after his father demise, the petitioner succeeds the Office of the Hereditary Trustee. The father of the petitioner died on 05.08.1997. By Practice, HR&CE authorities communications are addressal to Hereditary Trustees periodically, with term of office specified therein. The office of trusteeship is one of inheritance and no previous situation arose for determining petitioner's rights as Hereditary Trustee under Section 63 of HR&CE Act.

4. The petitioner had earlier filed W.P(MD).No.12780 of 2012 to induct him as Hereditary Trustee. This Court passed an order directing the HR&CE officials to consider the petitioner's representation and to pass appropriate orders under Section 54 (2) of the HR&CE Act. Thereafter, the petitioner sent a representation on 10.03.2017, reply was sent by the temple authorities in Na.Ka.No.2846/2017/A5, dated 15.05.2017 informing that office of the Trustee to the temple is not Hereditary Trustee. Hence, this writ petition is filed.

5. The learned Special Government Advocate for the respondent submits that the forefathers of the petitioner were never recognised as Hereditary Trustee. The petitioner makes a claim based on a civil suit in O.S.No.464 of 1921, which was filed by the fore fathers of the petitioner, wherein, the order was passed in I.A.No.471 of 1921, dated 18.07.2021, wherein, there is a reference to O.S.No.323 of 1886 of the Suit, District Munsif Court, Kulithalai, where, it is recorded that Poojari are the Hereditary Managers and the Trustees of the temple. The petitioner's forefathers got Poojariship or trusteeship of the temple proved from the time immemorial. This fact has not been looked into by the respondent. The petitioner submitted an application along with the order of the civil suit, death certificate of the petitioner's father and the order passed in W.P. (MD).No.12780 of 2012, dated 13.02.2017 was sent to the respondent. Further this Court despite directed the respondent to consider the petitioner's representation which they failed to do. On the other hand, rejected the claim of the petitioner that the petitioner's father has not obtained the declaration under Section 63 (b) of HR&CE Act. There is no reference to the petitioner's representation and the civil Court orders.

6. The learned Special Government Pleader for the respondent further submitted that the petitioner had earlier filed W.P(MD). No.12780 of 2012 seeking to consider his representation dated 05.09.2012. His representation, dated 05.09.2012 was rejected and thereafter, he sent another representation, dated 10.03.2017. The petitioner's representation was considered in a detailed manner and



found that the petitioner or his fore fathers not obtained any declaration under Section 63 (b) of HR&CE ACT. After HR&CE Department coming into force, every person is required to get his right and titleship to get declared from the concerned authorities, namely, Deputy Commissioner/Joint Commissioner. In this case, the petitioner failed to do so and if at all the petitioner has any claim of Hereditary right, he has to approach the Joint Commissioner by filing appropriate application and get his rights declared in the manner known to law.

7. Considering the submission, it is seen that the petitioner is placing reliance on the civil suit order of the year 1921 and prior to it, these are the documents, which are to be produced along with the petition under Section 63(b) of HR&CE Act, to be filed before the concerned jurisdictional Joint Commissioner HR&CE, who has to record evidence, peruse the documents and thereafter, pass orders accordingly. The petitioner only after getting declaration under Section 63 (b) of HR&CE Act, can claim any right as Hereditary Trusteeship. In this writ petition, the petitioner's right cannot be decided.

8. With the above direction, the writ petition stands dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (A.D.II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

The Joint Commissioner,
Tamil Nadu HR &CE Board,
Uthamarkoil,
Trichirappalli.

+1 CC to M/s.SPL.GP (SR-25184[F] dated 10/06/2022)

W.P(MD) .No.18081 of 2017
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RD(20.06.2022) 3P 3C