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Writ Petition No.13279 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2023

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

Writ Petition No.13279 of 2023
and WMP.Nos.12994 and 12995 of 2023

Kulasekaran

...Petitioner

Vs

1. The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Mayiladuthurai.

2.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Mayiladuthurai.

3.The Executive Officer,
Arulmigu Thirumuthalnatha Swamy Thirukovil,
Thirumeniyarkovil, Mayiladuthurai.

4.J.Jayakumar,
S/o.Jayaraman, S2, 2nd Floor,
Samiksha Apartment, No.85, 4th Cross Street,
Jayanthi Nagr, Kolathur, Chennai – 600 099.
(R4 impleaded vide order dated 14.06.2023 made
in WMP.No.16751 of 2021 in W.P.No.13279/2023 by NAVJ)

... Respondents



Writ Petition No.13279 of 2023

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorari, calling for the records of the 1st respondent in செ.மு.ந.க.எண்:9848/2022/Aa1, dated 29.03.2023 and quash the same as arbitrary, illegal, against law and violation of principal of Natural justice.

For Petitioner : Mr.S.Parthasarathy
Senior Advocate
for Mr.P.Dinesh kumar

For Respondent : Mr.S.Yashwanth
(HR&CE) Additional Government Pleader
for R1 to R3

Mr.W.M.Abdul Majeed
for M/s.G.Sumitra for R4

ORDER

Challenging the order passed by the 1st respondent appointing a fit person pending consideration of the application filed by the petitioner under Section 54(1) of HR&CE Act, the petitioner has come up with this writ petition.

2. According to the petitioner, the trusteeship of the temple namely Arulmigu Thirumuthalnatha Swamy Thirukovil was held to be hereditary one by the Deputy Commissioner of HR & CE Department by



order dated 30.08.1981 made in Original Application No.12 of 1981. The temple was administered by Hereditary Trustee one Ramakrishna Naidu and he handed over the trusteeship to the petitioner on 20.02.2022 as the petitioner is the eldest male member of his family. It is also stated by the petitioner that after obtaining permission from the authorities, the petitioner conducted Balalayam for the temple to conduct Kumbabishegam.

3. Mr.S.Yashwanth, learned Additional Government Pleader (HR&CE) appearing for R1 to R3 submits that the petitioner has filed an application under Section 54(1) of HR & CE Act on 23.02.2023 seeking to recognize him as Hereditary Trustee of the temple. It is also stated by the learned counsel that the last Hereditary trustee died in the year 2002 and the petitioner is not a direct heir of the Hereditary trustee. Therefore, pending enquiry into the question who is the person entitled to succeed to the trusteeship, a fit person has been appointed by the impugned order.

4. Mr.W.M.Abdul Majeed, learned counsel representing M/s.G.Sumitra learned counsel appearing for the 4th respondent submits that the petitioner is indulged in certain irregularities and therefore, he should not be allowed to function as a trustee of temple.



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5. A perusal of affidavit filed in support of this writ petition and also the documents filed in the typed set of papers including the impugned order, would suggest that the Hereditary trustee died in the year 2002 and thereafter, the petitioner herein has been administering the temple in defacto capacity for the past 18 years.

6. This Court entertained this writ petition and granted interim stay of the impugned order on 27.04.2023. Therefore, the petitioner is continuing as trustee even today.

7. In view of the fact that the application filed by the petitioner for recognizing him as Hereditary trustee under Section 54(1) of HR & CE Act, is already pending before the first respondent, it would be appropriate to direct the first respondent to consider the same and pass orders in accordance with law within a period of four weeks from the date of receipt of a copy of this order.



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8. Till the application filed by the petitioner under Section 54 (1) of HR & CE Act, is disposed of by the first respondent, the petitioner is entitled to continue as a trustee.

9. The learned counsel for the 4th respondent submits that he shall be heard by the 1st respondent while considering his complaints against the petitioner. It is needless to say when the representation of 4th respondent making allegations of irregularity in temple administration is taken up for consideration, the same shall be decided by 1st respondent after notice to petitioner and 4th respondent.

10. With these observations, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

12.07.2023

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
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S.SOUNTHAR, J.

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To

1. The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Mayiladuthurai.

2.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Mayiladuthurai.

3.The Executive Officer,
Arulmigu Thirumuthalnatha Swamy Thirukovil,
Thirumeniyarkovil, Mayiladuthurai.

W.P.No. 13279 of 2023

12.07.2023