



W.P. No. 22630 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2023

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 22630 of 2023

and

W.M.P. No. 22079 of 2023

1. R.Vijayan

2. J.Ramesh

3. J.Saravanan

4. P.Santhosh

5. B.Ganesan

6. Sabari

7. V.Guru

... Petitioners

-vs-

1. The State of Tamil Nadu rep by the
The Joint Commissioner,
Hindu Religious Charitable and Endowments Department,
Thiruvanamalai.

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

3. Arulmighu Angalaparameshwari Temple,
Rep. by the Executive Officer,
Gandhi Main Road,
Arani Town and Taluk,
Thiruvanamalai District.



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4. Balakumaran

... Respondents

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Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus calling for the records on the file of the 2nd respondent in connection with the order passed by him in the Proceedings No. Se. Mu. Na. Ka. No. 2884/2022/A1 dated 06.03.2023, appointing the 4th Respondent as “Non-Hereditary Trustee” and quash the same and direct the 1 & 2 respondents to continue the petitioners as “Hereditary Trustees”.

For Petitioners : Mr. R.Singaravelan,
Senior Advocate for
M/s. V.Ambika

For Respondents : Mr. K.Karthikeyan,
Government Advocate (HR & CE)
(for R1 to R3)

No appearance (for R4)

ORDER

Heard Mr. R.Singaravelan, Learned Senior Advocate for the Petitioners and Mr. K.Karthikeyan, Learned Government Advocate appearing for the First to Third Respondents and perused the materials placed on record, apart from the pleadings of the parties.



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2. Though notice had been served on the Fourth Respondent, he has not entered appearance either in person or through Counsel.

3. It is the case of the Petitioners that they are Hereditary Trustees of the Temple of the Third Respondent and they have on 10.05.2022 made an application in O.A. No. 10 of 2022 under Section 63(b) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (hereinafter referred to as 'the HR & CE Act' for short), before the First Respondent for such relief, which is pending. However, the Second Respondent by Proceedings in Se.Mu.Na.Ka. No. 2884/2022/A1 dated 06.03.2023 in furtherance to the resolution passed by the District Committee had appointed the Fourth Respondent as Hereditary Trustee of the Temple of the Third Respondent in the exercise of powers under Section 49(1) of the HR & CE Act, which is assailed in this Writ Petition.

4. It is brought to notice that in view of the interim order passed by this Court at the time of admission on 01.08.2023 requiring the parties to maintain *status quo*, the impugned order has not been given effect till date.



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5. It is evident on a reading of the impugned order that it is an admitted position that the office of trusteeship in the Temple of the Third Respondent is 'hereditary', which would mean that the filling up of the vacancies in the office of trustees of that Temple would be governed by Section 54 of the HR & CE Act. It has been held in the decision of this Court in ***Prem Anand -vs- Commissioner, Hindu Religious and Charitable Endowments, Madras*** [(1990) 1 LW 144] that under Section 54 of the HR & CE Act, when a permanent vacancy occurs in the Hereditary Trustee of a religious institution, the next in the line of succession shall be entitled to succeed to the office and there is no necessity, whatever, for the next hereditary trustee to make an application for being appointed to that post. It would follow as its corollary that the appointment to the post of Hereditary Trustees of a Temple would not come under the purview of the District Committee under Section 7-A of the HR & CE Act, which is entrusted only with appointment of Non-Hereditary Trustees of Temples. In other words, when the Petitioners have filed the application in O.A. No. 10 of 2022 before the First Respondent to declare them as Hereditary Trustees of the Temple of the Third Respondent, it was imminent to first decide whether they were entitled to such relief and it is only in the event of arriving at the conclusion that they could not be treated as the 'Hereditary Trustees' of the



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Temple of the Third Respondent that the further course of action to be followed would arise for consideration. There is also no discussion in the impugned order passed by the Second Respondent as to how the District Committee had determined that the Fourth Respondent was eligible to be appointed as the Hereditary Trustee of the Temple of the Third Respondent.

6. In such circumstances, this Court without expressing any view on the merits of the controversy, passes the following order:-

- (i) the impugned order passed by the Second Respondent, which cannot be sustained, is set aside;
- (ii) the First Respondent shall forthwith examine the pending application in O.A. No. 10 of 2022 made by the Petitioners or similar applications made by other persons, if any, for recording any one or more of them as the Hereditary Trustees of the Temple of the Third Respondent;
- (iii) if it is found that any other details or supporting documents is necessary, the deficiencies in that regard shall be informed in writing to the Petitioners and other persons concerned requiring the same to be furnished within a time frame of not less than 10 working days for the same;
- (iv) in the event of not being satisfied with the requirements even thereafter,



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full opportunity of personal hearing to the Petitioners and all other persons concerned shall be afforded to explain their position in the enquiry conducted in that regard;

- (v) it shall be ensured that there are atleast two effective hearings every month showing progress of the case; and
- (vi) a reasoned order shall be passed dealing with each of the contentions raised on merits and in accordance with law and the decision taken communicated to the parties under written acknowledgment and the report of such compliance shall be filed by the Registrar (Judicial) of this Court.

In the result, the Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petition is closed. No costs.

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Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 24.05.2024.

vjt/nsi



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To

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1. The Joint Commissioner,
Hindu Religious Charitable and Endowments Department,
Thiruvanamalai.
2. The Assistant Commissioner,
Hindu Religious Charitable and Endowments Department,
Thiruvanamalai District.

Copy to

The Registrar (Judicial),
Madras High Court,
Chennai – 600104.



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P.D. AUDIKESAVALU, J.

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