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Writ Petition No.22790 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED :07.08.2023**

**CORAM**

**THE HONOURABLE MR.JUSTICE S.SOUNTHAR**

**Writ Petition No.22790 of 2023**  
**and WMP.Nos.22243, 22244, 22245 and 22246 of 2023**

- 1.M.Gowri Ammal
- 2.T.M.Parameswari
- 3.T.M.Murali
- 4.T.M.Thanikachalam

... Petitioners

Vs

1.The Commissioner,  
Hindu Religious and Charitable Endowments Department,  
Mylapore, Chennai – 600 004.

2.The Joint Commissioner – II,  
Hindu Religious and Charitable Endowments Department,  
Mylapore, Chennai – 600 004.

3.The Assistant Commissioner,  
Hindu Religious and Charitable Endowments Department,  
Mylapore, Chennai – 600 004.

4.Thakkar/Executive Officer,  
Arulmigu Kadumbadiamman (a)  
Kadumbadi Chinniamman Thirukovil,  
No.213, Bharathi Salai, Royapettah, Chennai – 600 004.

5.The Inspector of Police,  
D4 Police Station,  
Zambazaar, Royapettah, Chennai – 600 014.



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6.Aravind

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... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records of the proceedings of the 3<sup>rd</sup> respondent herein dated 27.09.2022 bearing Se.Mu.Na.Ka.No.1182/2022/Aa2 and the consequential proceedings of the 2<sup>nd</sup> respondent herein dated 10.05.2023 bearing Na.Ka.No.2066/2023/Aa3 and quash the same as being arbitrary, illegal, unlawful and violative of the petitioner's statutory and fundamental rights, in addition to being violative of principles of natural justice and consequently restrain the respondents from interfering with the administration and management of the subject temple by the petitioners, in any manner whatsoever.

For Petitioners : Mr.Surya Narayanan  
for Rahul Balaji

For Respondents : Mr.K.Karthikeyan  
Government Advocate (HR and CE)  
for R1 to R4  
Mr.J.Subbaiah  
Government Advocate (Crl.side) for R5



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## **ORDER**

The instant writ petition has been filed challenging the order passed by the 3<sup>rd</sup> respondent dated 27.09.2022 appointing fit person to the temple called Kadumbadi Chinniamman Thirukovil and Consequential order passed by the 2<sup>nd</sup> respondent directing the fit person to take over the temple.

2. According to the petitioner, the presiding deity of the above said temple is a family deity of the petitioner's family and the same was founded by the ancestors in the year 1882. The petitioner's forefather one Umapathy Chettiar filed a petition under Section 63(b) of HR and CE Act and got declaration the Trusteeship of temple is Hereditary. After death of Umapathy Chettiar, the first petitioner's husband and father of other petitioners namely Mani Chettiar filed an application under Section 54(1) of HR and CE Act, seeking his recognition as a Hereditary Trustee, the said application was dismissed, after death of father of applicant on 12.08.2022. Challenging that order, the petitioners filed a revision before the 1<sup>st</sup> respondent in R.P.No.397 of 2022 and the same is pending.



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3. The husband of the first petitioner and father of other petitioners viz., Mani Chettiar filed an application under Section 63(a) of the HR and CE Act seeking declaration that the above said temple is a private temple and the said application was dismissed by the Joint Commissioner. Challenging said order an appeal was filed before the first respondent and the same is pending in A.No.145 of 2022.

4. In the meantime, the 3<sup>rd</sup> respondent passed an order appointing the 4<sup>th</sup> respondent as fit person and challenging the said order, the petitioner filed a revision before the 1<sup>st</sup> respondent in RP.No.151 of 2023 and the same is pending. Now, the 2<sup>nd</sup> respondent passed a consequential order directing the 4<sup>th</sup> respondent to take over the management of the temple as per the order appointing him as a fit person. Aggrieved by the same, the petitioners have come up before this Court by way of this writ petition.

5. Mr.K.Karthikeyan (HR& CE) learned Government Advocate appearing for the respondents 1 to 4 submits that the 4<sup>th</sup>



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respondent has already taken charge as fit person of the temple. Against the order appointing the appointment of fit person, the petitioners admittedly filed a revision before the first respondent and the same is pending. Having availed the remedy of revision before the first respondent by invoking Section 21 of HR and CE Act, the petitioners cannot file another petition for the very same relief. Therefore, the relief sought for in the writ petition cannot be granted. However, taking into consideration the fact that the above said proceedings are pending on the file of the first respondent, this Court is inclined to issue a direction to the first respondent to dispose of the revision petition in R.P.No.397 of 2022, R.P.No.151 of 2023 and A.No.145 of 2022 within a period of six months from the date of receipt of a copy of this order.

6. The learned counsel appearing for the petitioner submits that while the revision is pending, challenging the appointment of fit person, the 4<sup>th</sup> respondent is attempting to alter the private character of the temple by installing a new Hundial.



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7. The learned Government Advocate appearing for the respondents 1 to 4 on instructions submits that the Hundial has already been installed. When the appeal filed by the petitioner against the dismissal of the application filed under Section 63(a) of HR and CE Act is pending, it may not be appropriate for the respondents to install Hundial and to alter character of the temple. Therefore, the 4<sup>th</sup> respondent is directed to seal the Hundial installed by him till the disposal of Appeal No.145 of 2022, on the file of first respondent. As far as the other interim reliefs are concerned, it is for the petitioner to move an appropriate application before the Commissioner pending the revision.

8. With these observation, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

**07.08.2023**

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