



W.P.(MD) No.3167 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.04.2023

CORAM

THE HONOURABLE Ms.JUSTICE P.T.ASHA

**W.P.(MD) No.3167 of 2023
and
W.M.P.(MD) No.2951 of 2023**

V.Aarthi

... Petitioner

/vs./

- 1.The Commissioner,
Hindu Religious and Charitable Endowment Department,
Chennai.
- 2.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Madurai.
- 3.The Board of Trustee,
Arulmighu Pandi Muneeswarar Thirukovil,
Melamadai,
Madurai.
- 4.Dhanam
- 5.P.Pandeeswari
- 6.Ponnu Pandian



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7.Lakshmi

8.Jaiveerapandi

9.Rithish Pandi

10.Rajesh Pandi

*(R6 to R10 have been impleaded
vide order dated 05.04.2023)*

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records relating to the impugned order dated 13.01.2023 in R.P.No.8 of 2021/D2, and R.P.No.71 of 2021/D2 and RP.No.153 of 2021/D2, in so far as the direction to deposit the share pertaining to PM.Veerapandian in a separate account till the disposal Suo motu revision, pending before the 1st respondent and quash the same.

For Petitioner : Mr.VR.Shanmuganathan

For R1 & R2 : Mr.P.Subbaraj
Special Government Pleader

For R3 : M/s.J.Anandhavalli

For R4 : Mr.A.V.Arun

For R5 : Mr.S.Manohar



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ORDER

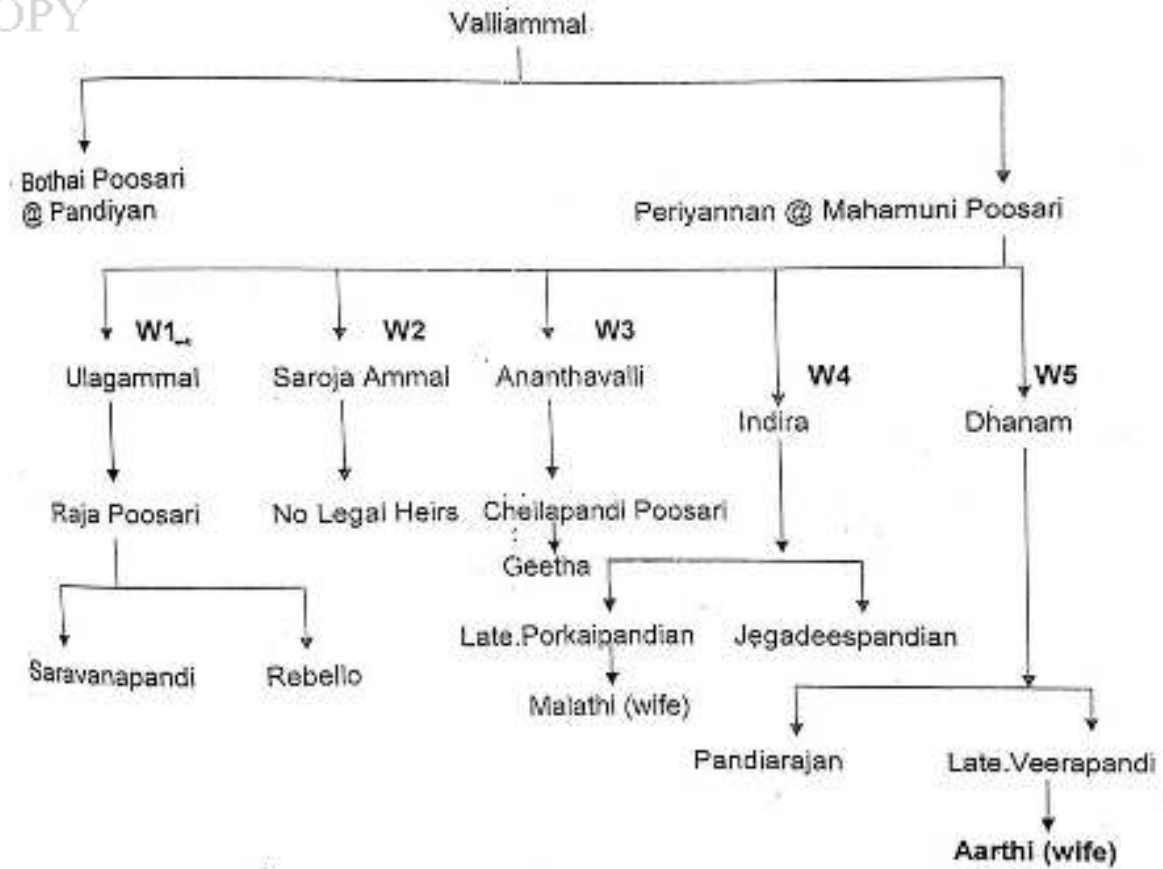
The above writ petition is filed seeking for the issue of a Writ of Certiorari calling for the records relating to the impugned order dated 13.01.2023 in R.P.No. 8 of 2021/D2, R.P.No.71 of 2021/D2 and R.P.No.153 of 2021/D2, insofar as the direction to deposit the share pertaining to PM.Veerapandian in a separate account till the disposal of the *suo motu* revision pending before the first respondent and quashing the same.

2.It is necessary for disposing of the above writ petition, to briefly allude to the facts. The issue relates to the Poosari rights in respect of the temple called Arulmighu Pandi Muneeswarar Temple at Melamadaï, Madurai and the sharing of the Hundial amount as well as the offerings.

3.The undisputed facts are that Arulmighu Pandi Muneeswarar Temple was originally administered by one Valliammal. During her life time, it had been declared as an exempted temple in the year 1935 and the administration of the Poosariship devolved upon her legal heirs. Given below is the genealogy of the said Valliammal.



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4. It is the case of the petitioner that one Mahamuni who died on 02.02.1986 had 5 wives, who have been described in the genealogy above. The fourth respondent herein is his 5th wife. She would submit that the Poosaries of the temple are entitled to 50% of the Hundial income and also in respect of the offerings. There were litigations with reference to the above and the same was settled through the Court of law. The said Mahamuni Poosari, had executed a Will dated 16.08.1985 giving details as to how the 5 weeks, which has been allotted to



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his branch, should be rotated amongst his legal heirs through his 5 wives. The 2nd wife, Saroja Ammal had no issues and therefore, the issue as to who should take the pooja turn after her life time was the subject matter of litigation, which includes suits and another proceedings, which are pending.

5.Meanwhile, the authority had appointed an Executive Officer under Section 45(1) of the Tamil Nadu Hindu Religious & Charitable Endowments Act, 1959 (*herein after referred to as Act*) to the temple and had also framed charges and suspended the trustees and thereafter had appointed a Fit Person. These proceedings were challenged and ultimately, the Hon'ble Supreme Court had set aside the appointment of the Executive Officer, the dismissal of the trustees and vesting of the administration with the Board of 5 trustees.

6.While so, the petitioner's husband, Veerapandi, passed away leaving behind him surviving his mother, the fourth respondent, the petitioner and two sons. The petitioner's husband and his brother, Pandiarajan were also doing the poojas as and when their turn by rotation had come and were receiving the share through the elder son, Pandiarajan. Originally it was Raja Poosari, the son of the



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1st wife, who was receiving the amounts and distributing it to different branches. During the life time of the petitioner's husband, he had approached the competent authority to record him as trustee under Section 54(1) of the Act and to pay his share independently.

7.By proceedings dated 29.11.2014, the second respondent had ordered that the share for the pooja turn of the family of Mahamuni through his 5th wife shall be paid to both the sons as per rotation. After the demise of her husband, the fourth respondent objected to the payment of the pooja turn share to the petitioner herein. The petitioner claimed a share in the Hundial and pooja collections.

8.Meanwhile, this Court had dismissed the appeal suit A.S.No.801 of 2002 filed by the Department against the judgment and decree in the suit O.S.No.413 of 2000 holding that the plaintiffs therein, which included the petitioner's husband, were entitled as a right to claim beneficial interest in the income as remuneration for the services rendered by them and for 'Paditharam' expenses. This Court had also held that they could claim a share in the Hundial income and that the HR &



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CE Department has not contributed any income whatsoever for the daily expenses for the poojas.

9.The *suo motu* revision power of the Commissioner is not based upon the order in W.P.No.13 of 1993 and the Commissioner, namely the sixth respondent had exceeded his power and therefore, the order passed by him was not legally sustainable. This Court in the above appeal had directed the Joint Commissioner to revise the percentage of the share from the Hundial income for the plaintiffs taking into account all the factors, like the increase in Hundial income as on date the rising of cost of living, the rising cost of Paditharam expenses and taking into consideration the rights of the trustees to lead a life with dignity.

After her husband's death on 05.03.2020, the petitioner had addressed a letter to the Joint Commissioner on 07.09.2020 to consider her as a legal representative of P.M.Veerapandi under Section 54(1) of the Act. On 16.09.2020, the petitioner and the fourth respondent had received a notice for enquiry from the Joint Commissioner, HR & CE calling them for an enquiry on 24.09.2020. The petitioner had given her reply to the said notice on 21.10.2020. On



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26.10.2020 she had received a notice asking her to come with all the documents for the enquiry on 21.11.2020 to the temple's office.

10.Meanwhile, W.P.(MD) No.15861 of 2020 was filed by the petitioner's brother-in-law challenging the proceedings of the second respondent therein dated 16.09.2020 in and by which the second respondent had directed the parties to appear before him for enquiry on 24.09.2020. Likewise, the petitioner had also filed W.P.(MD) No.18947 of 2020 challenging the order of the first respondent dated 02.12.2020 and directing the respondents 3 to 7 therein to act as per the Will dated 16.07.1985 of late.Mahamuni in respect of the pooja turn. Meanwhile, by an order dated 21.12.2020, the second respondent had passed the order stating that the petitioner herein was entitled to the share in the pooja offerings and a sum of Rs.50,000/- towards the Hundial collection. This order was taken up on challenge both by the fourth respondent, Dhanam in R.P.No.8 of 2021/D2 as well as the petitioner in R.P.No.71 of 2021/D2.

11.By an order dated 13.01.2023, the first respondent had dismissed the revisions filed by both Dhanam as well as the petitioner. However, while



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dismissing the revisions, the first respondent had observed that the share of the petitioner's husband alone would be deposited in a separate account till the disposal of the SMR pending before him. Aggrieved by this order, the petitioner is before this Court.

12.The petitioner's grievance is that the impugned order holds the proceedings of the second respondent bad only with reference to the share of Veerapandi and it is only the petitioner, who has been denied the share. She would submit that prior to the death of her husband, she was getting a share in the Hundial collection as well as the pooja offerings. This arrangement has been *suo motu* revised without any application or challenge to the same.

13.The petitioner would submit that she is aggrieved only by the fact that there is a cap placed on the Hundial collection to a sum of Rs.50,000/- and the refusal to record the petitioner as trustee. The respondents, who had appeared at the time of admission, would submit that the order in question is very much in order, since the petitioner's husband has himself moved the application to recognize him as a poojari and the order of the second respondent is only an



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interim arrangement, which has been passed without jurisdiction. The first respondent has set right this wrong.

14. Heard the learned counsels appearing on either side.

15. A perusal of the impugned order would clearly demonstrate that the same is a non speaking one. The first respondent has simply observed that since the *suo motu* proceedings were pending against the order dated 29.11.2014 of the second respondent and when the legality of this order passed in favour of P.M. Verapandi was under question, the rights of the legal representative to receive the share cannot be decided. Only on these basis, the first respondent has passed the impugned three line order. The impugned order would clearly show that apart from the petitioner, the fourth respondent as well as one Pandeewari had also challenged the order. There is absolutely no discussion about their applications and the fate of the same.

16. Further, it is seen from the records that the fourth respondent has issued a letter dated 21.12.2020 to the first respondent, wherein she has stated that from



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2015, her elder son, Pandiarajan, has been doing the poosari rights as per rotation and he has been sharing the Hundial collection as well as the other offerings with her and his brother, Veerapandi. She also refers to an agreement entered into between Veerapandi and Pandiarajan regarding the above.

17. She would submit that in the year 2014 without notice to her and her elder son her second son Veerapandi had made an application to the first respondent and obtained orders behind their back. He had passed away on 05.03.2020. She would submit that her daughter-in-law was not entitled to a share. The second respondent by his order dated 21.12.2020 has held that the petitioner herein was entitled to a share in the offerings and would be entitled only to a sum of Rs.50,000/- from the Hundial collection irrespective of the amounts collected. It was aggrieved by this order that the petitioner had approached the first respondent by filing the revision. Since the share of Veerapandi has been admitted by the fourth respondent, interest of justice and equity requires that the petitioner and her children being the legal representatives of Veerapandi, whose right to receive the collection have not been denied by the fourth respondent or her son should also be entitled to the same.



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18. In the result, the Writ Petition is disposed of. The order impugned in this writ petition is set aside and the matter is remitted back to the first respondent for fresh consideration. The same shall be disposed of within a period of 4 weeks from the date of receipt of a copy of this order giving personal hearing to all the parties concerned. 25% of the amount from out of the share due to late. Veerapandi could be paid to the fourth respondent and the remaining shall be paid to the petitioner from out of the hundial collection and plate collection till the disposal of the revisions before the first respondent. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No

05.04.2023

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To

1. The Commissioner,
Hindu Religious and Charitable Endowment Department,
Chennai.

12/14



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2.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
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P.T.ASHA, J.

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