



W.P.(MD).No.9063 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.09.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.9063 of 2023

K.Rajaram

... Petitioner

Vs.

1.The Joint Commissioner,
Tamil Nadu Hindu Religious and
Charitable Department,
Madurai District.

2.Ravichandran

3.Sumathi

... Respondents

(R2 is impleaded vide court order dated 02.06.2023 made W.M.P.(MD).No.10796 of 2023 in W.P.(MD).No.9063 of 2023)

(R3 is impleaded vide court order dated 21.09.2023 made W.M.P.(MD).No.19338 of 2023 in W.P.(MD).No.9063 of 2023)

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent dated 05.04.2023 in proceedings, A.Thi.Ka.No. 2671/2023/A1, quash the same, as the same is arbitrary, ultravires, contrary to Sec.54 of Tamil Nadu Hindu Religious and Charitable Endowment Act 22/1959, and consequently number and dispose off the application filed to set aside the exparte order dated 16.12.2021 on merits.



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For Petitioner : Mr.R.G.Shankar Ganesh

For Respondents : Mr.R.Ragavendran,
Government Advocate
For R-1

Mr.Karthikeyavenkitachalopathy,
For R-2

Mr.P.Raja Gopalan
For R-3

ORDER

This Writ Petition is filed for Writ of Certiorarified Mandamus, to quash the impugned order, dated 05.04.2023, and consequently number and dispose of the application filed to set aside the exparte order dated 16.12.2021.

2. The petitioner's father namely P. Karuppan Chettiar had filed O.A. No. 11 of 2017 to declare the office of trusteeship in respect of Arulmigu Nagammal Temple, Melur Taluk, Madurai District as hereditary trustee under section 63(b) of Act 22 of 1959 before the first respondent. Pending disposal of the O.A., the petitioner and five others have filed an application to implead themselves as respondents and the said petition was allowed by the first respondent. In the said litigation the petitioner has took a stand, the said temple is a public temple and his father cannot claim any rights over the temple and he cannot be declared



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as hereditary trustee. In short, the petitioner has declined the hereditary trusteeship of his father.

3. Pending disposal of O.A. the petitioner's father died leaving behind the petitioner, and 2 brothers and a sister as legal heirs. The petitioner did not attend the proceedings and hence, he was set-exparte in O.A. Hence, the petitioner filed a petition to set-aside the exparte order and the authorities after considering the same has returned the papers, since final orders are passed in the said petition. Aggrieved over the same, the petitioner is before this Court.

4. The petitioner is having an alternative remedy to prefer an appeal before the appellate authority.

5. The learned counsel appearing for the petitioner vehemently submitted that the petitioner is having a right to inherit the petitioner's father's property. The hereditary trusteeship is also to be considered as one of the properties and he should be given his rights. After hearing the argument this Court had given its anxious consideration. On one hand the petitioner has declined the rights of his father as a hereditary trustee. On the other hand, the petitioner is claiming to treat the same as hereditary trusteeship as property and seek to divide the estate of the deceased father. Even if the petitioner claims to divide the hereditary



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trusteeship rights by treating the same as the property, then appropriate remedy would be file civil suit, since partially partition is not maintainable. The petitioner is at liberty to file appeal or suit as stated supra.

6. With these observations and directions, this Writ Petition is disposed of. There shall be no order as to costs.

21.09.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Sml

To

The Joint Commissioner,
Tamil Nadu Hindu Religious and
Charitable Department,
Madurai District.



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S.SRIMATHY, J.

Sml

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