



W.P(MD)Nos.11298 and 11352 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.05.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)Nos.11298 and 11352 of 2023

and

W.M.P(MD) Nos.9865 of 2023 in W.P(MD) No.11298 of 2023

W.P.(MD) No.11298 of 2023:

Madurai Vandiyur Nacharammal,
Paramparai Arakkattalai through its
Hereditary Trustee/Managing Trustee,
A.Muthusamy Pillai

... Petitioner

Vs.

1. The Commissioner,
HR and CE Department,
Utthamar Gandhi Salai, Nungambakkam,
Chennai-600 034.
2. The Joint Commissioner,
HR and CE Department, Ellis Nagar,
Madurai.
3. The Joint Commissioner,
HR and CE Department,
A/m.Sri Kallalagar Thrukovil,
Melur Circle, Madurai.
4. R.Banumathi
5. D.Tamilganesan
6. Kamatchi @ R.Pitchaiammal



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7. R.Vijayakumar

8. R.Dhakshinamoorthy

9. R.Muthukrishnan

10. R.Andiambalam

11. S.P.Selvam

12. S.Rajeshwari

13. J.Ratha

14. A.R.Suganya

15. D.Murugan

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 1st respondent to recognize and appoint the Petitioner Scheme Trustees being the fit person to the 'Vandiyur Nacharammal Kattalai' U/s.53(4) of the Hindu Religious and Charitable Endowment Act 1999.

For Petitioner : Mr.V.Vinayagamoorthy

For Respondents : Mr.D.Gandhirajan
Special Government Pleader
for R1 & R2

Mr. K.R.Laxman for R3 and R4

Mr.B.Saravanan for R6 & R9

Mr.K.C.Ramalingam for R15



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W.P.(MD) No.11352 of 2023:

D.Tamil Ganesan

... Petitioner

Vs.

1. The Commissioner,
Hindu Religious and Charitable
Endowments Department,
Uthamar Gandhi Road,
Nungambakkam High Road,
Chennai-600 034.
2. The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department,
S.S.Colony, Madurai.
3. The Executive Officer,
Arulmighu Kallalagar Thirukoil,
Alagarkoil, Madurai District.
4. Madurai Vandiyur Natcharammal
Arakkattalai Paramparai Trust
(1922/1923-23.04.1923 Bye Law
57/2023-03.03.2023)
Hereditary Trustee/Managing Trustee,
Chairman A.Muthusamy Pillai

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 1st to 3rd respondents to permit the petitioner to participate and performing the Chithirai Festival function in the Pasali 1432 year at our Madurai Vandiyur Natcharammal Trust Mandapam and getting the Parivatta Mariyathai in the Chithirai Festival at the time of Lord Kalzhagar arrival on 05.05.2023 and 06.05.2023.



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For Petitioner : Mr.N.Ranjith

For Respondents : Mr.N.GA.Natarajan
Government Advocate
for R1 & R2

Mr. K.R.Laxman for R3

COMMON ORDER

By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself. Since the issue arises in both the writ petitions are similar in nature, both the writ petitions are heard together and disposed of by this common order.

2. W.P.(MD) No.11298 of 2023 has been filed for a mandamus to the first respondent to recognize and appoint the petitioner 'Scheme Trustees' being the fit person to the 'Vandiyur Nacharammal Kattalai' under Section 53(4) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (for brevity 'the Act'). Similarly, W.P.(MD) No.11352 of 2023 has been filed for a mandamus to respondents 1 to 3 to permit the petitioner to participate and performing the Chithirai Festival function in the Fasli year 1432 at Madurai Vandiyur Natcharammal Trust Mandapam and getting the 'Parivatta Mariyathai' in the Chithirai Festival at the time of Lord Kallazhagar arrival on 05.05.2023



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and 06.05.2023.

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3. Learned counsel appearing for the petitioner in W.P.(MD) No. 11298 of 2023 would submit that the petitioner's father is a Hereditary Trustee of Madurai Vandiyur Nacharamman Parambarai Arangattalai. Earlier, his father M.P.Anantham Pillai, is the trustee of the temple, however, he was not allowed to take over the charge and the Hindu Religious and Charitable Endowments Department (for brevity 'HR & CE Department') appointed the Executive Officer to continue the endowments of the Mandagapadi. Challenging the same, the petitioner's father filed a writ petition before this Court in W.P.(MD) No. 33163 of 2002. Pending writ petition, the petitioner's father died and other person impleaded as a party and this Court set aside the appointment of the Executive Officer and directed the HR & CE Department to hand over the charges to the Hereditary Trustee, which was challenged upto the Apex Court and the Apex Court held the handing over of the trusteeship in favour of the Hereditary Trustee. Accordingly, the official respondents recognized the petitioner as a 'Trustee' vide order, dated 20.03.2003 and appointed one Dhakshinamoorthy, Pitchaiammal, Madhavan, Pappathy @ Parvathi, Chandran, Logambal @ Pitchammal, Muthusamy, M.Tirupathi and Veluchamy Pillai as the Hereditary Trustees. Even thereafter, there was a dispute with regard to the



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management of the trust and thereafter, the dispute was landed before the Joint Commissioner, HR & CE Department, who passed an order on 29.01.2019, recognizing one Pitchaiammal and appointed her as an ad-hoc hereditary trustee. The said order dated 29.01.2019 was not challenged and thereafter, another Joint Commissioner passed an order on 19.01.2021 appointing D.Babyammal, as the Hereditary Trustee. However, subsequently the said Babyammal, died. Thereafter, no one was appointed as the Hereditary Trustee and challenging the said appointment of Hereditary Trustee of Babyammal, dated 19.01.2021, the son of Babyammal, namely, D.Murugan, filed a writ petition before this Court in W.P.(MD) No.9449 of 2021 and this Court granted interim stay in W.M.P.(MD) No.7173 of 2021 by its order, dated 12.05.2021 and as against the interim order, one D.Tamil Ganesan, filed a writ appeal before this Court in W.A.(MD) No.1716 of 2021 and the said writ appeal was dismissed and its order attained finality and the writ petition is pending before this Court. Even the contention of the writ petition will not affect the rights of the petitioner to succeed the estate of the petitioner's father who appointed as the Hereditary Trustee in terms of Section 53(4) of the Act and thereby, the present writ petition has been filed with the aforesaid prayer.

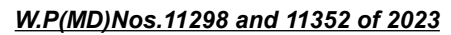


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4. Further, one D.Tamil Ganesan, who lost the case before the Division Bench of this Court, challenging the interim order granted by this Court in favour of D.Murugan, the legal heir of Babyammal, who was appointed as a Hereditary Trustee by order, dated 09.01.2021, filed a writ petition before this Court for claiming 'Parivattam Mariyathai' on behalf of the Vandiyur Natchiyammal Trust.

5. Learned counsel appearing for the petitioner in W.P.(MD) No. 11352 of 2023 would submit that the petitioner though lost the case before the Division Bench of this Court in W.A.(MD) No.1716 of 2021, even then, the petitioner is entitled to claim 'Parivattam Mariyathai' at the time of Mandagapadi function. However, the same was denied by the respondents and accordingly, he prayed for appropriate orders.

6. Per contra, learned counsel appearing for the sixth respondent in W.P.(MD) No.11298 of 2023 would submit that already, the petitioner has been appointed as an ad-hoc hereditary trustee by the Joint Commissioner and the second respondent passed the order, dated 29.01.2019. However, the said order has not been challenged till now in the manner known to law. Hence, the sixth respondent is entitled to continue as the Hereditary Trustee on an ad-hoc basis



7. Learned counsel appearing for the third respondent would submit that already, the second respondent has passed an order in favour of the sixth respondent and till date, the said order is continuing without challenge. Though the subsequent ad-hoc appointment in favour of other branch of trustees, namely, D.Babyammal, was challenged before this Court by her son D.Murugan and the said writ petition is pending, which will not deprive the rights of the sixth respondent, who is representing the another branch for conducting the Mandagapadi function. Hence, the prayer as sought for in both these writ petitions cannot be entertained. Accordingly, he prayed for the dismissal of these writ petitions.

8. Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the respective respondents.



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9. The facts, in nutshell, as disclosed in these writ petitions are that the petitioners are claiming Mandagapadi right, however, the same was not recognized by the official respondents, thereby, both the parties have filed the respective writ petitions before this Court. The fact remains that the second respondent passed the order, dated 29.01.2019 in favour of the sixth respondent and in respect of one branch, namely, Pitchaiammal, and the very same second respondent passed another order recognizing other branch by appointing D.Babyammal. Though both the appointments of Hereditary Trustee were made only on an ad-hoc basis, the appointment of Babyammal was challenged before this Court in W.P.(MD) No.9449 of 2021 and obtained an interim order. Unless the disposal of the writ petition and the order of appointment of the sixth respondent dated 29.01.2019 still remains, the relief sought for in these writ petitions cannot be granted. Accordingly, these writ petitions are dismissed without any order as to costs. Consequently, connected miscellaneous petition is closed.

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Index :Yes/No
Internet :Yes/No
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Chennai-600 034.
2. The Joint Commissioner,
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4. The Executive Officer,
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Alagarkoil, Madurai District.



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M.DHANDAPANI, J.

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