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W.P.(MD)No.15141 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.07.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.15141 of 2023
and
W.M.P.(MD)No.12754 of 2023

G.Gopalakrishnan

... Petitioner

VS.

- 1.The Joint Commissioner,
Hindu Religious and Charitable
Endowments,
Madurai, Madurai District.
- 2.The Assistant Commissioner,
Hindu Religious and Charitable
Endowments,
Dindigul, Dindigul District.



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3.The Executive Officer,
Arulmigu Gopinathaswamy Thirukovil,
Reddiarchathiram, Dindigul District.

4.The Joint Commissioner,
Hindu Religious and Charitable
Endowments,
Dindigul, Dindigul District.

5.The Executive Officer,
Arulmigu Srinivasa Perumal Thirukovil,
Malaiyadivaram, Dindigul District.

... Respondents

***(R4 and R5 are suo motu impleaded by this
Court, vide this order, dated 31.07.2023,
in W.P.(MD)No.15141 of 2023)***

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for records relating to the proceedings made in Sa.Mu.Na.Ka.No.5003/2021 Aa3, dated 14.06.2023, on the file of the 2nd respondent, to quash the same.

For Petitioner : Mr.R.Sundar
For Respondents : Mr.S.P.Maharajan
Special Government Pleader



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ORDER

This writ petition is filed writ of Certiorari, to quash impugned proceedings, dated 14.06.2023, on the file of the 2nd respondent.

2. The contention of the petitioner is that the 3rd respondent appointed a Fit Person on 05.10.2001 challenging the same the Trustees had filed R.P.No.1 of 2001 on the file of the 1st respondent. In the meanwhile, the trustee had also filed a petition under section 64(i) of the HR&CE Act, 1959 for framing a scheme in O.A.No.15 of 2002 and the same was pending. Since the O.A. was pending and the Fit Person has not disturbed the administration of temple, they did not concentrate the R.P. petition. In these circumstances the petitioner received an order dated 02.04.2012 to hand over the administration of the temple to the 3rd



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respondent and the same was challenged in W.P.(MD)No.4763 of 2012 and this Court directed the authorities to dispose of the O.A.No.15 of 2002. On 15.06.2023 the respondents had handed over the copy of the order dated 14.06.2023 and directed to hand over the administration to the 3rd respondent. The contention of the petitioner is that this order is passed without any notice for enquiry and the said application was dismissed.

3. The contention of the respondent is that the Advocate appearing for the petitioner submitted that they are not pressing the application O.A.No.15 of 2022 and hence, the said submission was recorded the said O.A., was dismissed on 14.06.2023. After the dismissal of the said O.A., the respondents proceeded further to appoint the fit person. After not



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pressing the application, the impugned order came to be passed appointing fit person. Therefore, there is no infirmity.

4. However, this contention of the respondents was refuted by saying that since the application was originally filed by one Srinivasan (1st petitioner) and Kuppusamy (2nd petitioner) and the said 2 persons who were following the O.A., died. Therefore, there was no proper instructions to the Advocate and hence, the Advocate has made the submission and based on the said submission, the O.A., came to be dismissed. The petitioner further submitted that the said Advocate has also submitted before the authorities that as and when it is necessary, a proper application would be submitted and they would intend to process the same.



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5. This Court is of the considered opinion that the Advocate has reserved a right to file a fresh application. Based on the available Trustees, now the petitioner has come forward before this Court and submitted that they are the other Trustees available and they are intended to further prosecute the same. Moreover it is seen that the petitioner has already filed an I.A., which was never taken on Board by the respondents.

6. This contention of the petitioner was refuted by the respondents by saying that the petitioner has not submitted any application to the appropriate jurisdictional authority. The appropriate jurisdictional authority is Joint Commissioner, Dindigul. However, the petitioner has submitted an application to the Joint Commissioner, Madurai, who is not



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having any jurisdiction over the said Temple.

7. The learned Special Government Pleader for the respondents contended that even in the present petition, the petitioner has not impleaded the appropriate authority rather they have impleaded Joint Commissioner, Madurai but the Assistant Commissioner, Dindigul is the appropriate authority. Therefore, the writ petition is not maintainable. The further objection by the respondents is that earlier Executive Officer of Arulmigu Gopinathaswamy Thirukovil was appointed but subsequently, it was cancelled. The Executive Officer of Malaiadivaram Temple was appointed, which is also evident from the impugned order. The petitioner has again impleaded a wrong person as 3rd respondent and claimed the present writ petition is not maintainable.



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8. It is seen that the Joint Commissioner, Dindigul, has passed the impugned order, but the petitioner has wrongly impleaded the Assistant Commissioner, Dindigul. It is also seen that the Executive Officer of Malaiadivaram Temple is necessary party. Therefore, this Court is *suo motu* impleading the Joint Commissioner, HR & CE, Dindigul, and Executive Officer of Malaiyadivaram, Arulmigu Srinivasa Perumal Thirukovil, Dindigul, as respondents 4 and 5 respectively, in order to end the litigation between the parties. The petitioner is directed to submit an O.A. application to the Joint Commissioner, Dindigul, within a period of two weeks from the date of receipt of the copy of the order. Thereafter, the respondents shall consider the application within a period of three months. The impugned order of appointing the fit person is kept in abeyance. The petitioner is directed to implead the appropriate



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respondents in the application that would be filed.

9. With the above said observation, the writ petition is allowed.

No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No

31.07.2023

Internet : Yes

NCC : Yes / No

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S.SRIMATHY, J

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