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W.P.(MD)No.20300 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.08.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.20300 of 2023

and

W.M.P.(MD).No. 16740 of 2023

B.Saravana Rajan

... Petitioner

vs.

1.The Joint Commissioner,
HR & CE Department,
Ellis Nagar, Madurai.

2.The Assistant Commissioner,
HR & CE Department,
B-1 Salai, Ellis Nagar,
Madurai – 625 016.

.... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the first respondent to number the petitioner's application U/s 63(e) of HR & CE Act for hereditary trusteeship with regard to Arulmighu Varadharaja Perumal Thirukoil, Kappalur, Thirumangalam Taluk, Madurai District, and dispose of the same within the time frame fixed by this Court and till such time not to interfere with petitioner's administration to the said temple.



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For Petitioner : Mr.V.R.Shanmuganathan
For Respondents : Mr.S.Kameswaran,
Government Advocate

ORDER

This Writ Petition is filed for Mandamus directing the first respondent to number the petitioner's application U/s 63(e) of HR & CE Act for recognizing the petitioner as hereditary trustee.

2. Heard the parties appearing for either side. With their consent, the writ petition is taken up for final disposal at the admission stage itself.

3. The contention of the petitioner is that in the year 1993, the petitioner submitted an application to recognize his hereditary trusteeship. However, the respondents after considering the facts and circumstances appointed the petitioner as only trustee vide order dated 03.04.1993.

4. Further contention of the petitioner is that his forefather has served as Hereditary trustee. At the time of hearing the application in the year 1993, the



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petitioner was not able to produce the relevant records. However, he is in possession of such records. Hence, he has filed a petition before the authorities to recognize him as hereditary trustee. Since, the first respondent has not considered the petitioner's claim, he has filed a Writ Petition in W.P.(MD).No.4155 of 2023 and this Court vide order dated 10.03.2023 has held that “ it is open to the petitioners to move necessary application for interim orders before the first respondent”. However, the respondents have returned the petition by stating that the petitioner has not enclosed genealogy along with the application. The petitioner has re-presented the petition vide letter dated 19.04.2023. Now the petition is pending before the authorities. In the meanwhile, the respondents are taking hectic steps to appoint hereditary trustee in the petitioner's temple and have called for application from the eligible person vide proceedings dated 03.02.2023. Since the petitioner's application is pending, the respondents without considering the said application cannot appoint anybody, because it would affect the petitioner's right. In the meanwhile, the petitioner is continuing as trustee and maintaining the temple.



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5. Therefore, the respondents are directed to consider the petitioner's application within the period of six (6) months from the date of receipt of a copy of this order. Until then, the petitioner shall continue as a trustee of the temple. The respondents are restrained from appointing any new person until the petitioner's application is decided.

6. With these observations and directions, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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

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To

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Ellis Nagar, Madurai.
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S.SRIMATHY, J

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