



W.P.(MD).No.21845 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.09.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.21845 of 2023

and

W.M.P.(MD)No.18242 of 2023

Muthukumar

... Petitioner

Vs.

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

2.The Assistant Commissioner,
Tamil Nadu Hindu Religious and
Charitable Department,
Virudhunagar, Virudhunagar District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a *Writ of Certiorari*, to call for the records of the 2nd respondent, dated 09.08.2023, in proceedings in 3386-83/2021/AA3, to quash the same as the same is arbitrary, ultravires and colorable exercise of power.



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For Petitioner : Mr.R.G.Shankar Ganesh
For Respondents : Mr.S.P.Maharajan
Special Government Pleader

ORDER

This writ petition is filed for writ of Certiorari, to quash the proceedings dated 09.08.2023 in 3386-83/ 2021/AA3 passed by the 2nd respondent as arbitrary, ultra vires and colorable exercise of power.

2. Through the said proceedings, the respondents have called for the application from the eligible persons to appoint non-hereditary trustee. The contention of the petitioner is that the said temple was started by his ancestors for which he relies on the sale deed executed in the year 1938, wherein the land was purchased for the temple. Also relies on the settlement deed which is executed in favour of the temple. The petitioner is also relying on stone inscription (Kalvettu) which is available in the temple which shows that the temple was constructed in 1900s. The electricity connection is also granted which stands in the name of the petitioner's father until 28.11.2022. Even



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though the electricity connection is in the name of the petitioner's father it was obtained for the purpose of temple. The contention of the petitioner is that the Electricity Board insisted to show document to substantiate the land belongs the petitioner and hence the petitioner father had produced document and obtained electricity connection. But subsequently based on the letter from HR&CE Department the Electricity Board had changed the name of the service connection from the name of the petitioner to that of the temple and the same was changed without the issuing notice to the petitioner. The change of connection was granted to the temple from 02.08.2023.

3. The Learned Counsel appearing for the respondent submitted that the impugned proceeding is only notice calling for application from the eligible persons and the last date was 07.09.2023. It is only calling for application and so far the respondents have not appointed anybody. The applications are under consideration, after processing the same, the respondents would appoint non-hereditary trustee. Further the respondent submitted that the respondents are taking steps to appoint non-hereditary trustee in order to obey



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the order of the Hon'ble Division Bench passed in Suo Moto 574 of 2015 dated 07.06.2021 to appoint trustees to all temples. Hence the respondents have issued the said notification to appoint non-hereditary trustee.

4. After hearing the rival contentions this Court is of the considered opinion that since the petitioner's ancestors have constructed the said temple, the respondents cannot appoint anybody without issuing notice to the petitioner. Moreover, the respondents have changed the electricity service connection in the name of the temple without notice to the petitioner. The respondents rely on the suo moto writ petition order of the Hon'ble Division Bench passed in Suo Moto 574 of 2015 dated 07.06.2021. In the judgment various directions were issued for overall management of the temple and the Hon'ble Division has specifically issued direction for appointment of trustees and the relevant portion of the judgment under the heading "Trustee" is extracted hereunder:



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“TRUSTEE

(54) The HR&CE Department shall file a report before this Court within a period of eight (8) weeks listing out the number of temples without Trustees, the duration of such vacancy, the particulars of the persons appointed as “Fit Person” and the steps taken by the Department to appoint trustees.

(55) If no hereditary trustees stake claim, then steps must be taken to appoint non-hereditary trustees. The non-hereditary trustees must be from the religious denomination, to which the temple belongs to, without the political background.

(56) Stringent rules on the conduct, character, interest and knowledge on both religious affairs as well as administrative abilities of the trustees, must be enacted to ensure that the right person is appointed to manage the religious affairs of the temples.

(57) Keeping in mind that the overall administration shall be with the HR&CE Department, the authorities shall supervise the affairs of the religious institutions ensuring that the HR&CE Act is strictly complying with by the trustees and taking necessary remedial steps for which, they are paid an annual contribution as specified under Section 92.”



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5. The aforesaid judgment is supporting the case of the petitioner rather than the respondents. Under clause (55) the Hon'ble Division Bench has specifically directed that **“If no hereditary trustees stake claim, then steps must be taken to appoint non-hereditary trustees”**. In the present case the petitioner is claiming the hereditary trusteeship and the petitioner had filed the petition under Section 63(b) of Tamil Nadu Hindu Religious and Endowments Act, 1959 (Act 22/1959) recently. Therefore, the respondents are directed to consider the petitioner's application to recognize his rights and the said exercise shall be completed within a period of six months from the date of receipt of a copy of this order. Until then the petitioner shall manage the temple and the respondents shall not interfere in the management of the temple.

6. The impugned notice is issued calling for appointment of trustees in the petitioner's temple, hence the same is quashed as far as the petitioner's temple is concerned. With the above said observation, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition



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is closed.

08.09.2023

(2/2)

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

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To

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Charitable Department,
Madurai District.
- 2.The Assistant Commissioner,
Tamil Nadu Hindu Religious and
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Virudhunagar, Virudhunagar District.



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S.SRIMATHY, J.

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