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W.P.No.2718 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2024

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.2718 of 2020
and
WMP.No.3155 of 2020

Manivannan

...Petitioner

Vs.

1.The Principal Secretary/Commissioner
Hindu Religious & Charitable Endowment
Nungambakkam High Road
Chennai 34.

2.The Joint Commissioner
Hindu Religious & Charitable Endowment
Theppakula Street
Thiruvanaikaval
Trichy 620 005.

3.The Assistant Commissioner
Hindu Religious & Charitable Endowment
Ariyalur.

4.The Fit Person/ Executive Officer
Arulmigu Prahatheeswarar Thirukoil
Gangaikondapuram
Ariyalur Taluk
Ariyalur District.

...Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the record of the impugned order passed by the second respondent in Se.Mu.Na.Ka.No.15234/2019/Aa4 dated 25.01.2020 and quash the same.

For Petitioner : Mr.M.R.Jothimanian

For Respondents : Mr.N.R.R.Arun Natarajan for R1 to R4
Special Government Pleader

ORDER

This Writ Petition is filed challenging the order passed by the second respondent appointing a fit person to the temple called Arulmigu Chelliyamman Mariyamman Temple, Kundaveli Village, Meensurutim Udayarpalayam Taluk, Ariyalur District.

2. It is the case of the petitioner that the above mentioned temple is an ancient temple under the hereditary trusteeship of the petitioner. The forefathers of the petitioner constructed the above temple and administered the



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temple as per the customary practice. The petitioner's father namely, Govindasamy filed an application in OA.No.12 of 1979 on the file of the Deputy Commissioner, (Judicial HR & CE), Madras, seeking declaration as hereditary trustee of the Temple. The said petition was allowed on 04.06.1982.

3. Aggrieved by the same, one Ramasamy and 12 others filed an appeal before the Commissioner and the order passed by the Deputy Commissioner was set aside and the matter was remanded back for fresh disposal. Therefore, the matter was again taken up for hearing by the Deputy Commissioner in OA.No.28 of 1978 and the hereditary nature of the trusteeship was again declared by the order dated 30.06.1995. The said order was challenged by one Ramasamy and others before the Commissioner, HR & CE in A.P.No.21 of 1996. The said appeal was allowed by setting aside the order passed by the Deputy Commissioner on 02.02.2005. Aggrieved by the same, the petitioner filed a statutory suit in OS.No.29 of 2005 on the file of the Subordinate Judge, Ariyalur and the same has been transferred to the Subordinate Court, Jayamkondam and renumbered as OS.No.10 of 2017.



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4. At this stage, the second respondent herein passed the impugned order appointing a fit person to the above mentioned temple. Challenging the said order, the petitioner has come by way of this Writ Petition.

5. The learned counsel for the petitioner submitted that the petitioner's predecessor and his forefathers have administered the temple as hereditary trustee. With regard to the hereditary nature of the trusteeship, a statutory suit is pending before the Civil Court. In such circumstances, the second respondent is not justified in appointing fit person without giving an opportunity to the petitioner, who is running the affairs of the temple for quiet a long time.

6. The learned counsel for the petitioner further submitted that in the impugned order there is no allegation of mismanagement against the petitioner. Therefore, absolutely there is no necessity for the second respondent for appointing a fit person. It is seen from the records that at the time of admission, an interim stay was granted in favour of the petitioner and the same has been extended from time to time.



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7. Mr.N.R.R.Arun Natarajan, learned Special Government Pleader appearing for the respondents 1 to 4 submitted that the order passed by the second respondent declaring the trusteeship of the temple as hereditary was set aside by the first respondent. In such circumstances, the second respondent was justified in appointing a fit person to the subject temple.

8. A reading of the impugned order would suggest that the dispute with regard to the hereditary trusteeship has been pending even from the year 1979 and the petitioner has been administering the affairs of the temple. Suddenly, there is no necessity for the second respondent to appoint a fit person that too without affording an opportunity to the petitioner. In the impugned order, the second respondent has not made any allegation of mismanagement against the petitioner. Therefore, this Court granted an interim stay of the impugned order and on strength of the interim order, the petitioner has been maintaining the subject temple. In these circumstances, this Court is inclined to issue a direction to dispose of the statutory suit pending before the Civil Court within a time frame.



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9. The learned counsel for the petitioner brought to the notice of this Court that the statutory suit in OS.No.10 of 2017 pending on the file of the Subordinate Court, Ariyalur was transferred to the Subordinate Court, Jayamkondam and renumbered as OS.No.1 of 2019.

10. In view of the same, the Subordinate Court, Jayamkondam is directed to dispose of the statutory suit in OS.No.1 of 2019 within a period of six months from the date of receipt of copy of this order. Till the disposal of the statutory suit by the Civil Court, the impugned order passed by the second respondent shall be kept in abeyance. After disposal of the suit, the second respondent is entitled to take a fresh look with regard to the administration of the temple based on the verdict of the Civil Court.

11. With these directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

04.11.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
dna



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