



OA. No.142 of 2024, A. Nos.1078 & 1079 of 2024

Reserved on: 29.04.2024

Pronounced on: 07.06.2024

**OA. No.142 of 2024**  
**and**  
**A. Nos.1078 & 1079 of 2024**  
**in**  
**C.S. No. 62 of 1933**

**P.B.BALAJI, J.**

The Applicant, one Mr.P.S.Jayarajagopal, claiming to be member of Sri Kalikambal Kamateswara Devasthanam and that he is a worshiper and devotee of Goddess Kalikambal, has filed the above three Applications seeking the following reliefs:-

(i) O.A. No.142 of 2024 has been filed for mandatory injunction to restrain the 2<sup>nd</sup> respondent from acting as the Managing Trustee, being ineligible as per Clauses 5 (c), (e) and (f) of the Scheme Decree.

(ii) A.No.1078 of 2024 has been filed seeking to set aside the election conducted on 24.12.2023 for the post of the Trustees of Sri Kalikambal Kamateswara Devasthanam, and

(iii) A. No.1079 of 2024 has been filed for a direction to not conduct inauguration and swearing in ceremony and thereby not inducting the 2<sup>nd</sup> respondent as the Managing Trustee.



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2. A counter affidavit has been filed by respondents 1 to 6 in A. No.1078 of 2024. I have heard Mr.M.Velmurugan and Ms.Girija Velmurugan, learned counsel for the Applicant, and Mr.R.Singaravelan, learned Senior Counsel for Mr.M.Baskar, learned counsel for the respondents 1 to 6 and Dr.Suriya, learned Additional Government Pleader for respondents 7 to 9.

3. The learned counsel for the Applicant would submit that there are serious irregularities committed in the election process and the election conducted for appointing Trustees is not in accordance with the Scheme Decree. The Applicant has made allegations against the second respondent and claims that the second respondent is unfit to be the Managing Trustee and the election held on 24.12.2023 is irregular and consequently the election has to be necessarily set aside and in the interregnum period, the second respondent should not be allowed to act as Managing Trustee and the respondents 7 to 9 should be enjoined from swearing in the second respondent as Managing Trustee.

4. Per contra learned Senior Counsel appearing for the respondents 1



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to 6 submits that the Applications filed as against the second respondent have become infructuous, since the second respondent is not the Managing Trustee and only the third respondent is the Managing Trustee. Further, the learned Senior Counsel would submit that election was duly conducted and in any event, the same cannot be sought to be set aside by way of an Application as attempted in the present case and consequently, he prayed for dismissal of all the three Applications.

5. Dr.Suriya, learned Additional Government Pleader appearing for respondents 7 to 9 would file a communication dated 29.04.2024 addressed by Joint Commissioner, HR&CE and referring to the same, she would submit that as per orders of the Joint Commissioner, HR & CE, election was conducted on 24.12.2023 and the apprehensions and allegations made by the Applicant have been stoutly denied. It is also contended by Dr.Suriya, the learned Additional Government Pleader that the Applications are also not maintainable.

6. With regard to the Application seeking injunction against the second respondent from acting as Managing Trustee, in view of the



admitted position that the the second respondent is not the Managing Trustee and it is only the third respondent who is the Managing Trustee, the Application in OA.142 of 2024, deserves no consideration and is liable to be dismissed on the above limited score itself.

7. With regard to A.No.1079 of 2024 also, since the second respondent is not the Managing Trustee and the third respondent has already been inducted/sworn in as the Managing Trustee, nothing survives for consideration in A.No.1079 of 2024, which seeks an injunction prohibiting respondents 7 to 9, from swearing in the second respondent as Managing Trustee. Consequently, this Application is also liable to be dismissed.

8. With regard to A.1078 of 2024, seeking to set aside the election, as rightly contended by the learned Senior Counsel Mr.R.Singaravelan, the election which has been already conducted and concluded cannot be set aside by way of an order in Application. Remedy is available to the aggrieved person, if any, under the provisions of the Hindu Religious and Charitable Endowments Act, 1959 (in short 'Act').



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9. Section 26 of the said Act deals with disqualification of Trustees and in terms of Section 26 of the Act, wherever any question arises as to whether a Trustee is disqualified for being appointed as a Trustee, the said question shall be referred for the decision of the Joint/Deputy Commissioner under the Scheme of the Act. Similarly, Section 53 of the Act, sets out the powers to suspend and remove a Trustees.

10. Therefore, when there is avenue available to challenge the election of Trustees, who according to the Applicant, are unfit and liable to be disqualified, the Application filed seeking to set aside the election in a summary manner, by merely throwing allegations on paper would be highly undesirable. If really the Applicant is serious about the disqualification of some of the Trustees, they being unfit or ineligible, his remedy is not to seek setting aside the election by way of Application in the present Scheme Suit. The Applicant has to establish and prove his allegations before the appropriate authority and unless he is able to satisfy the appropriate authority in that regard, he will not be entitled to succeed. Therefore, merely on the strength of an affidavit containing scathing allegations against some of the Trustees, it would not entitle the Applicant to seek setting aside



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of the election held to the post of Trustees.

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11. The Application is therefore clearly not maintainable in the eye of law and liable to be dismissed. In fine, all the three Applications are dismissed.

**07.06.2024**

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**P.B.BALAJI, J.**

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**Pre-delivery ORDER in**  
**OA. No.142 of 2024**  
**and**  
**A. Nos.1078 & 1079 of 2024**  
**in**  
**C.S. No. 62 of 1933**  
**(2/2)**

**07.06.2024**