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W.P.No.15039 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.15039 of 2019

And

W.M.P.Nos.15011 and 24784 of 2019

P.B.Vasudevan

... Petitioner

Vs.

1.The Joint Commissioner

Hindu Religious and Charitable Endowments Department
Commercial Tax Building Ground Floor,
Dr.Balasundaram Salai,
Coimbatore Central,
Coimbatore – 641 018.

2.V.P.Srinivasan

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records of the first respondent in reference No.SE MU NA KA 7868/2018/A4 dated 23.04.2019 and quash the same as illegal.

For Petitioner : Mr.R.Shivakumar
for M/s.K.M.Vijayan Associates

For Respondents : Mr.NRR.Arun Natarajan for R1
Special Government Pleader
Mr.R.Rajesh Vivekananthan for R2



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ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari, calling for the records of the first respondent in reference No.SE MU NA KA 7868/2018/A4 dated 23.04.2019 and quash the same as illegal.

2.The learned counsel appearing for the petitioner submitted that Arulmighu Mukyapranaswamy @ Hanumantharayaswamy Temple is the exempted Temple and the status of exemption is declared in O.P.No.31 of 1942 dated 09.03.1943, by the learned District Judge, Coimbatore. While so, the H.R. and C.E. Department attempted to interfere with the administration of the Temple by appointing Fit Person and the same was challenged in W.P.No.11383 of 1983 and vide order dated 07.11.1991 the said writ petition was allowed and the same was confirmed in W.A.No.950 of 1994 on 30.04.2001. However, the H.R. and C.E. Department is again attempting to interfere with the administration of the Temple by appointing the second respondent as Fit Person, which is not sustainable one.

3.The learned Special Government Pleader appearing for the first



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respondent submitted that the subject Temple is not exempted Temple or nominated Temple. It is declared to be an excepted Temple.

Earlier, the petitioner's forefather filed O.P.No.31 of 1942 before the learned District Judge of Coimbatore seeking to set aside the order of the Board dated 03.01.1942 and to declare the subject Temple to be an excepted Temple. The learned District Judge of Coimbatore vide order dated 09.03.1943, allowed O.P.No.31 of 1942 and declared the subject Temple as an excepted Temple.

4.The learned Special Government Pleader appearing for the first respondent further submitted that one Dhrowpathiammal was the hereditary trustee of the Temple and after her demise, no one made application under Section 54(1) of the H.R. and C.E. Act seeking to recognize them as the hereditary trustee and hence, inorder to maintain the Temple and for proper administration of the Temple, the second respondent was appointed as the fit person of the Temple and further submitted that if the petitioner makes application under Section 54(1) of the H.R. and C.E. Act before the first respondent, the same will be considered and appropriate orders will be passed.

5.The learned Special Government Pleader appearing for the first



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respondent further submitted that the excepted Temple was defined to mean and include a Temple, the right of succession to the office of the trustee or the offices of all the trustees, whereof has been hereditary or the succession to the trusteeship whereof has been specially provided for by the founder. In support of his contentions, he relied upon the decision of this Court reported in **CDJ 1995 MHC 736 [P.Raghupathi Naicker Vs. The Commissioner and Secretary to the Government of Tamil Nadu and others]**.

6. Heard the arguments advanced on either side and perused the materials available on record.

7. The petitioner's forefather filed O.P.No.31 of 1942 before the learned District Judge of Coimbatore seeking to set aside the order of the Board dated 03.01.1942 and to declare the subject Temple to be an excepted Temple. The learned District Judge of Coimbatore vide order dated 09.03.1943, allowed O.P.No.31 of 1942 and declared the subject Temple as an excepted Temple. However, no order was passed declaring the Temple as exempted Temple or nominated Temple.



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8.Perusal of the decision relied upon by the learned Special Government Pleader appearing for the first respondent makes it clear that as per clause (5) of Section 9j of the Madras Hindu Religious and Charitable Endowments Act II of 1927, excepted Temple was defined to mean and include a Temple, the right of succession to the office of the trustee or the offices of all the trustees, whereof has been hereditary or the succession to the trusteeship whereof has been specially provided for by the founder.

9.In view of the above, once the hereditary trustee died, the next line of succession has to make application under Section 54(1) of the H.R. and C.E. Act seeking to recognize them as the hereditary trustee and till such time, the H.R. and C.E. Department is entitled to appoint Fit Person.

10.Hence, this Court without interfering with the order impugned in this writ petition, grants liberty to the petitioner to make application under Section 54(1) of the H.R. and C.E. Act before the first respondent seeking to recognize him as the hereditary trustee of the subject Temple, within a period of two weeks from the date of receipt of a copy of this order. If any such application is made by the



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petitioner, the first respondent shall consider the same, on merits and

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M.DHANDAPANI,J.

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in accordance with law, within a period of eight weeks thereafter.

11.The writ petition is accordingly disposed of. No costs.

Consequently, the connected miscellaneous petitions are closed.

23.09.2024

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

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