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W.P.No.15671 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.15671 of 2024

And

W.M.P.Nos.17071, 17073, 17075, 17076 and 24459 of 2024

S.Nagendra Kumar

... Petitioner

Vs.

- 1.The Principal Secretary,
Government of Tamilnadu,
Tourism, Culture Religious and Endowment Department,
Fort St.George,
Chennai – 600 009.
- 2.The Additional Chief Secretary,
Government of Tamilnadu,
Tourism, Culture Religious and Endowment Department,
Fort St.George,
Chennai – 600 009.
- 3.The Commissioner
Hindu Religious and Charitable
Endowment Department,
Nungambakkam,
Chennai – 600 034.
- 4.The Joint Commissioner
Hindu Religious and Charitable
Endowment Department,
Nungambakkam,
Chennai – 600 034.



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5.The Assistant Commissioner/ Executive Officer,
Arulmighu Vanabadrakali Amman Temple,
Thekkampatti,
Mettupalayam Taluk,
Coimbatore District.

6.The Fit Person
Arulmighu Vanabadrakali Amman Temple,
Thekkampatti,
Mettupalayam Taluk,
Coimbatore District.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to appoint the petitioner as the Hereditary Trustee of Arulmigu Vanabatra Kaliyamman Temple as per Section 54(2) of TN HR and CE Act in the temporary vacancy created due to the temporary suspension of Mrs.R.Vasantha and consequently appoint the petitioner as the permanent trustee as and when a permanent vacancy occurs.

For Petitioner : M/s.Chitra Sampath
Senior Advocate
for M/s.T.S.Baskaran

For Respondents : Mr.N.R.R.Arun Natarajan
Special Government Pleader

Advocate Commissioner: Mr.M.Muruganantham



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ORDER

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The petitioner has filed this writ petition seeking issuance of Writ of Mandamus directing the respondents to appoint the petitioner as the Hereditary Trustee of Arulmigu Vanabatra Kaliasman Temple as per Section 54(2) of Tamil Nadu Hindu Religious and Charitable Endowments Act in the temporary vacancy created due to the temporary suspension of Mrs.R.Vasantha and consequently appoint the petitioner as the permanent trustee as and when a permanent vacancy occurs.

2.The learned Senior Counsel appearing for the petitioner submitted that Arulmigu Vanabatra Kaliasman Temple is situated at Thakkampatti, Mettupalayam Taluk, Coimbatore District and it was constructed by the petitioner's Mother's Grandfather during the year 1880. Thus the petitioner's family is having the right to the office of the hereditary trusteeship in the said Temple. The petitioner's Mother Mrs.R.Vasantha was appointed as hereditary trustee during the year 2006. The said Temple is a listed Temple and is governed under the provisions of Tamil Nadu Hindu Religious and Charitable Endowments Act and an Executive Officer/ fifth respondent was appointed by the third respondent for the Temple.

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3.The learned Senior Counsel appearing for the petitioner further submitted that during the course of administration of the Temple, the petitioner's Mother had several issues with the fifth respondent and hence the second respondent issued a charge memo dated 06.06.2024 to the petitioner's Mother. Thereafter the second respondent vide order dated 06.06.2024 temporarily suspended the petitioner's Mother and the fifth respondent gave criminal complaint against the petitioner's Mother with false allegations. The Fit Person took charge on 07.06.2024 without any notice to the petitioner or his Mother. The petitioner made representation to the respondents seeking to recognize him as the hereditary trustee, however, the same has not yet been considered.

4.The learned Senior Counsel appearing for the petitioner further submitted that the fourth respondent has filed counter affidavit with so many allegations against the petitioner's Mother and the petitioner and hence, if the fourth respondent is allowed to decide the representation made by the petitioner seeking to recognize him as the hereditary trustee, it may cause prejudice to the petitioner. Hence, this Court may issue direction to another Joint Commissioner to decide the



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representation made by the petitioner seeking to recognize him as the hereditary trustee and grant liberty to the petitioner to challenge the appointment of the Fit Person.

5.The learned Special Government Pleader appearing for the respondents submitted that admittedly Fit Person was appointed by the fifth respondent in the vacancy that arose due to the suspension order passed against the petitioner's Mother. Though the petitioner made representation seeking to recognize him as the hereditary trustee, the said representation is pre-mature one since only suspension order was passed against the petitioner's Mother and the criminal case was also closed. Hence, this Court may allow the fourth respondent to decide the representation made by the petitioner seeking to recognize him as the hereditary trustee and till such time, the Fit Person may be allowed to continue in the administration of the Temple.

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



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7.The facts in the present case is not in dispute. Admittedly, the petitioner's Mother was appointed as hereditary trustee during the year 2006 and subsequently, she was suspended for the charges levelled against her. The petitioner who was in the next line of succession rightly made representation seeking to recognize him as the hereditary trustee and the same is pending.

8.This Court vide order dated 13.06.2024 appointed Mr.M.Muruganantham, Advocate as Advocate Commissioner to visit the subject Temple on 14.06.2024 and to supervise the opening of entire hundials by recording the same and to file a report before this Court. Accordingly, the Advocate Commissioner has filed a report dated 02.07.2024, as per which, the Gold available in Thattu Kaanikkai 1 & 2 Hundial is 2.980 gms; Niranthara Hundial 1 to 20 is 187.970 gms; Thattu Kannikkai Hundial 3 is 0.910 gms and 269.100 gms of Silver was available in Niranthara Hundial 1 to 20 and the amount available in Thattu Kaanikkai Hundial No.1 & 2 is Rs.7,29,694/-; Niranthara Hundial No.1 to 20 is Rs.35,56,976/-; Temporary Thattu Kanikkai Hundial No.3 is Rs.77,548/- and Temporary Thattu Kanikkai Hundial No.4 is Rs.8,31,799/-.



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9. When such income is derived from the Temple, the said Temple cannot function without any Fit Person or Hereditary Trustee. Hence, the writ petition is disposed of on the following terms:

(i) Since the petitioner apprehends that if the fourth respondent is allowed to decide the representation made by the petitioner seeking to recognize him as the hereditary trustee, it may cause prejudice to the petitioner, this Court directs the petitioner to file appropriate application under Section 54 of the H.R.&C.E. Act before The Joint Commissioner, Hindu Religious and Charitable Endowments Department, Thirupur District, within a period of two weeks from the date of receipt of a copy of this order.

(ii) If any such application is filed by the petitioner, The Joint Commissioner, Hindu Religious and Charitable Endowments Department, Thirupur District, shall consider the same, conduct enquiry between the petitioner and the fifth respondent and pass appropriate orders within a period of eight weeks from the date of receipt of such application.

(iii) Till the next hereditary trustee is appointed, the Fit Person/ sixth respondent shall continue to administer the day to day affairs of the Temple.



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(iv)The respondents are directed to go for public auction in respect of the Temple properties and award tender to the highest bidder. However, the auction conducted by the respondents to the successful bidder would be subject to the decision of the Joint Commissioner, Thirupur District.

(v)Any appointment made is also subject to the outcome of the decision of the Joint Commissioner, Thirupur District.

10.This writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

14.10.2024

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

To

1.The Principal Secretary,
Government of Tamilnadu,
Tourism, Culture Religious and Endowment Department,
Fort St.George,
Chennai – 600 009.

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