



W.P.No. 17268 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2024

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

W.P.No.17268 of 2024

1. Mr.S.Easwaran

2. Mr.B. Kuppusamy

3. M.Samraj

.. Petitioners

Versus

1. The Commissioner.
Hindu Religious & Charitable Endowments Department,
Uttamar Gandhi Salai,
Nungambakkam,
Chennai 600 034.

2. The Joint Commissioner,
Hindu Religious & Charitable Endowments Department,
Salem – 636 001.

3. The Assistant commissioner,
Hindu Religious & Charitable Endowments Department,
Sengunda Thirumana Mandapam Complex,
Pennagaram Main Road, Dharmapuri – 636 701.

4. The Inspector,
Arulmigu Soothirakargam Temple,
Veppalahalli Village, Palacode Taluk, Dharmapuri – 636 805.



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5. Mr.K. Sivakumar

...Respondents

Prayer: This petition is filed under Article 226 of the Constitution of India to issue a writ of Mandamus directing the Respondents 1 and 2 to consider our representations dated 27.05.2024 and further transfer the M.P.No.10 of 2009 from the file of HR&CE, Salem to the file of Commissioner, HR&CE Department, Chennai to be heard along with R.P.Nos.165,166,167 of 2024 on 01.07.2024 and grant such other relief and pass orders.

For Petitioners
For Respondent

: Mr.C. Uma Shankar
: Mr. N.R.R. Arun NAtarajan
Special Government Pleader

ORDER

This petition is filed to seeking to issue a writ of Mandamus directing the Respondents 1 and 2 to consider the petitioners representations dated 27.05.2024 and further transfer the M.P.No.10 of 2009 from the file of HR&CE, Salem to the file of Commissioner, HR&CE Department, Chennai to be heard along with



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R.P.Nos.165,166,167 of 2024 on 01.07.2024.

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2. By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

3. The case of the petitioners are that they are the devotees and trustees of the temple situated at Survey No.45/3, 46,21/2 at Veppalahalli Village, Palacode Taluk, Dharmapuri District. Further the petitioners are also lessors to the land belonging to the said temple. While so, the 5th respondent herein started to interfere with the lease hold, due to which the petitioners filed O.S.No.116 of 2012 against the 5th respondent seeking for declaration that and the first petitioner is a Joint Hereditary trustees for the said temple and the said suit was dismissed on 12.06.2015 due to the reason that there is no jurisdiction to Civil Court to adjudicate the said claim. Hence, the petitioner preferred First Appeal in A.S.No.53 of 2017 before the Sub-Court, Palacode and the same was declared that the first petitioner and the 5th respondent are Joint Hereditary Trustees of the said temple. Hence, the petitioners herein filed an M.P.under Section 53(2) of HR&CE Act before the Joint



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commissioner Salem to suspend the the 5th respondent from the post of Hereditary trusteeship of the said temple and the same is still pending. When this being the case, the Assistant Commissioner, HR&CE Department Salem issued notice to the petitioner under Section 78 of the HR&CE Act, 1959 to vacate the petitioner from the subject property and the Joint Commissioner, HR&CE Department Salem vide order dated 10.01.2024. Challenging the same the petitioners have file R.P.Nos 165,166 and 167 of 2024 before the first respondent herein to set aside the order dated 10.01.2024 and the same is still pending. The grievance of the petitioner is that due to the delay in passing orders in M.P.No.10 of 2009 by the Joint Commissioner HR & CE,the petitioners are in trouble and they are not able to enjoy the lands. Hence, this petition.

4. The learned counsel for the petitioners submitted that the M.P.No.10 of 2009 pending before the Joint Commissioner should be transferred to the file of Commissioner, HR&CE Department, Chennai and both the said M.P and R.P.Nos.165,166,167 of 2024 on 01.07.2024 should be heard together. If both the petitions are heard separately it will cause great inconvenience to them. Hence, prays to allow this petition.



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5. The learned Special Government pleader submitted that the M.P.No.10 of 2009 was filed under Section 53(2) of HR&CE Act before the Joint Commissioner, Salem praying to suspend and dismiss the 5th respondent from the post of Hereditary Trustees of the above temple and the R.P.Nos.165,166,167 of 2024 was filed under Section 21 of the Tamil Nadu Hindu Religious & Charitable Endowments Act, 1959 before the Commissioner praying to set aside the order dated 10.01.2024 made in M.P.No.121 of 2019 on the file of the Joint Commissioner, Salem. Hence, it is not possible to hear both the petitions together.

6. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondent.

7. Considering the facts of the case and the submissions made by learned Special Government pleader it is made clear that both the petitions cannot be heard together.



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8. In the result, The Commissioner/first respondent and The Joint Commissioner/second respondent are directed to pass orders in the petitions which are pending before them on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this Order. **The Joint Commissioner/second respondent is directed to forward the order passed in the M.P.No.10 of 2009 to the Commissioner/first respondent.**

9. With the aforesaid direction, this Writ Petition stands disposed of. No costs.

02.07.2024

Speaking order : Yes/No

Neutral citation : Yes/No

Index : Yes/No

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V.BHAVANI SUBBAROYAN, J.

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