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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2024

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. No.28373 of 2014
and MP.No.1 of 2014

R.Arunkumar

...Petitioner

Vs.

1. The Commissioner,
HR & CE Department,
Nungambakkam, Chennai-34.

2. The Joint Commissioner,
HR & CE Department,
Nungambakkam, Chennai-34.

3. The Assistant Commissioner,
HR & CE Department,
Nungambakkam, Chennai-34.

4. The Executive Officer,
Arulmighu Kachaleeswarar Thirukoil,
Armenian Street, Chennai-1.

....Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari calling for the records of the third respondent in connection with Se.Mu.Na.Ka.No.3803/2014/Aa2/ dated 07.10.2014 by appointing the 4th respondent as the fit person of Arulmighu Ishta Sidhi



Vinayagar Temple Thambu Chetty Street, Chennai-1 and quash the same.

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For Petitioners : Mr.N.Velmurugan
For Respondents : Mr.K.Karthikeyan, GA HR & CE

ORDER

The writ petition has been filed seeking to quash the order in Se.Mu.Na.Ka.No.3803/2014/Aa2/ dated 07.10.2014 by appointing the 4th respondent as the fit person of Arulmighu Ishta Sidhi Vinayagar Temple Thambu Chetty Street, Chennai-1 and quash the same.

2. It is the case of the petitioner that Arulmighu Sidhi Vinayagar Temple is situated at No.100, Thambu Chetty Street, opposite to Arulmighu Kalikambal Temple and the petitioner's great grandmother Kullammal @ Kanakammal was declared as the sole Trustee of the said Temple by this Court in C.S.No.28/1916 vide order dated 11.12.1916. The said Kullammal executed a Will dated 01.08.1942 registered as document No.4/1942 on the file of the SRO, Sowcarpet in which she appointed her daughter Jagadambal as the sole trustee for the said temple. The said Jagadhambal executed a registered Trust deed before the Registrar of Madras vide document



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No.4090 of 1968 dated 28.08.1968 through which she has appointed her daughter Rajeswari, who is the petitioner's mother as the next sole trustee for the temple. Based on which, the petitioner's mother administered the temple till her life time. After death of the petitioner's mother, he is in the place of her mother as the sole hereditary trustee. Subsequently, in the year, 2014, the third respondent appointed the 4th respondent as the fit person of the temple vide the impugned order without information to the petitioner. Challenging the same, the present writ petition has been filed.

3. The learned counsel for the petitioner submitted that while entertaining the writ petition, this Court granted interim stay on 13.10.2014 by permitting the petitioner to act as an hereditary trustee of the temple. However, without providing any opportunity, the third respondent passed the impugned order and appointed a fit person to administer the temple, which is not sustainable and this Court may set aside the impugned order and allow this petition.

4. The learned Government Advocate fairly submitted that before



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passing the impugned order, no opportunity was given to the petitioner.

5. Heard, the learned counsel for the petitioners, the learned counsel appearing for the respondents and perused the materials available on record.

6. Considering the fact that before passing the impugned order, no opportunity has been given to the petitioner. On the sole ground, this Court is inclined to set aside the impugned order passed by the third respondent dated 07.10.2014 and remands the matter back to the third respondent to decide the issue afresh within a period of twelve weeks from the date of receipt of a copy of this order, after providing opportunity to the petitioner in accordance with law.

7. With the above direction, the writ petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

23.08.2024

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Index : Yes/No

Internet : Yes/No

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