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W.P.No.20180 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :04.12.2024

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.20180 of 2020
and WMP.No.24927 of 2024

R.Kandasamy

..... Petitioner

Vs.

1.The Joint Commissioner,
HR and CE Department,
Coimbatore.

2.The Assistant Commissioner,
HR and CE Department,
Erode.

3.The Executive Officer,
Arulmigu Chokanatha Swami Temple,
Ammapettai,
Erode District.

..... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, praying to call for the records, pertaining to the impugned order, dated 27.11.2020, having a reference Nil, on the file of the 3rd respondent, the Executive Officer, Arulmigu Chokanatha Swami Thirukovil, Ammapettai, Bhavani Taluk and quash the same.

For Petitioner : Mr.E.P.Senniyangiri
For Respondents :Mr.K.Karthikeyan



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Government Advocate (HR and CE)
for R1 and R2

M/s.R.Rajesh Vivekananthan for R3

ORDER

The writ petition is filed challenging the order passed by the 3rd respondent directing the petitioner to hand over the administration of the temple called Arulmigu Irusiamman Thiru Kovil, Koonakkapalayam Village, Bhavani Taluk, Erode District.

2. It is the case of the petitioner that the above mentioned temple was founded by the ancestors of the petitioner 300 years ago. Earlier the petitioner's Great grandfather viz., Ravutha Gounder managed the affairs of the said temple as Hereditary trustee and after his demise, the petitioner's grandfather viz., Muthugounder managed the temple. After the said Muthugounder's death, the petitioner's father Ravutha Gounder managed the temple. The petitioner's father died during 2008 from then onwards the petitioner has been incharge of the temple as Hereditary Trustee. Infact, the petitioner filed an application under Section 63(b) of the HR and CE Act, 1959 before the first



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respondent on 09.01.2020, seeking declaration of Hereditary nature of Trusteeship of the temple.

3. In these circumstances, suddenly, the petitioner received the impugned communication from 3rd respondent directing the petitioner to hand over the charge of Temple administration to him on the ground that the fit person was appointed to the said temple as early as on 19.12.2007. It is asserted by the petitioner that the order appointing the fit person of the temple was not at all served to the then trustee of the temple [i.e., the petitioner's father]. The petitioner's father and the petitioner herein have been continuing as Hereditary trustees of the temple all along. Therefore, the petitioner has come before this Court challenging the impugned order directing him to hand over the charge.

4. The learned counsel appearing for the petitioner submits that the petitioner already filed an application for declaration of



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hereditary nature of the trusteeship of the temple and the same is pending without deciding nature of the trusteeship. The learned counsel further submits that the order appointing fit person was not at all served on the petitioner or his father. Therefore, the respondents are not entitled to seek handing over of the administration, without even serving the order appointing the fit person.

5. Mr.K.Karthikeyan, learned Government Advocate (HR and CE) appearing for the respondents 1 and 2 would submits that during inspection it was found that the petitioner's father had taken over the management of the temple and collected funds from the temple. Therefore, the second respondent appointed a fit person by order dated 19.12.2007 and inspite of the same, the petitioner failed to hand over the administration, hence, the impugned communication was sent.

6. Even, according to the respondents, a fit person was appointed by the second respondent as early as on 19.12.2007, if that be so, absolutely there is no explanation on the part of the respondent why



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no steps have been taken to take charge of the administration for nearly 13 years. It is also asserted by the petitioner that the order appointing a fit person was not at all served to him. The petitioner filed an application seeking declaration of Hereditary status of the trusteeship of the temple before the first respondent in O.A.No.19 of 2020 and the same is pending. It is also brought to the notice of this Court, subsequently, office of the first respondent was bifurcated and the petitioner's original application was transferred to the file of Joint Commissioner, Erode and his application is re-numbered as O.A.No.157 of 2021 and the same is pending. Without deciding the nature of the trusteeship of the temple, whether it is hereditary or not, the respondents are not entitled to interfere with the administration. According to the petitioner, he is fourth generation in administration of the temple. Whether the character of the trusteeship of the temple is hereditary has to be decided by the first respondent in the application filed by the petitioner.



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7. Unless the said question is decided by the first respondent, the respondents are not entitled to disturb the administration of the temple. The respondents are unable to give any reason for the failure to take over the administration immediately after the appointment of fit person in the year 2007 and no material has been produced before this Court to show that order of appointment of fit person was served on the petitioner or his father.

8. In such circumstances, this Court directs the Joint Commissioner, Erode, to dispose of the application filed by the petitioner in O.A.No.157 of 2021 within a period of four months from the date of receipt of copy of this order. Till any decision is taken with regard to the character of the trusteeship of the temple in the said application, the respondents are not entitled to disturb the right of the petitioner to administer the temple. After disposal of the original application filed by the petitioner, it is open to the respondent to take action in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.



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Index : Yes/No

Speaking order: Yes/No

Neutral Citation: Yes/No

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To

1. The Deputy Secretary,
Disciplinary Directorate,
The Institute of Chartered Accountants of India,
ICAI Bhawan, Indraprastha Marg,
New Delhi – 110 002.

2. The Secretary,
The Institute of Chartered Accountants of India,
ICAI Bhawan, Indraprastha Marg,
New Delhi – 110 002.

3. The Appellate Authority,
2nd Floor, Research Block, ICAI Bhawan, A-29,
Sector 62, Noida – 201 301.

4. The Disciplinary Committee, Disciplinary Directorate,
The Institute of Chartered Accountants of India,
ICAI Bhawan, 52-53-54, Institutional Area,
Vishwas Nagar, Shahdara, Near Karkardooma Court,
New Delhi – 110 032.

S.SOUNTHAR, J.

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