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W.P.No.24383 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.24383 of 2024

and

W.M.P.Nos.26645 & 26646 of 2024

1.A.Rajamani Pillai

2.A.Durairaj Pillai

3.M.Jayaseelan

... Petitioners

Vs.

1.The Commissioner,

Hindu Religious and Charitable Endowments Department,

No.119, Uthamar Gandhi Salai,

Nungambakkam, Chennai – 600 034.

2.The Joint Commissioner,

Hindu Religious and Charitable Endowments Board,

Villupuram.

3.The Assistant Commissioner,

Hindu Religious and Charitable Endowments Board,

Kallakurichi.

4.P.Muthusamy

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records relating to the proceedings in Se.Mu.Na.Ka.No.335/2023/Aa1/ dated 27.03.2023 of the 3rd respondent herein and quash the order passed therein.



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For Petitioner : Mr.G.Sumitra

For Respondents : Mr.N.R.R.Arun Natarajan
Special Government Pleader [R1 to R3]

ORDER

This Writ Petition has been filed seeking for a Writ of Certiorari, to call for the records relating to the proceedings in Se.Mu.Na.Ka.No.335/2023/Aa1/ dated 27.03.2023 of the 3rd respondent herein and quash the order passed therein.

2. Mr.N.R.R.Arun Natarajan, learned Special Government Pleader, accepts notice on behalf of the respondents 1 to 3. With the consent of both the parties, this writ petition is taken up for final disposal at the stage of admission itself.

3. Since no adverse order is passed against the 4th respondent, notice to the respondent is dispensed with.

4. The case of the 3rd petitioner is that, three brothers, namely Meivaraya Pillai, Annamalai Pillai and Arunachalam Pillai were devotees



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of Isaniswamigal of Thiruvannamalai and as such established the Lord Nataraja Bajanai Madam at Poondi Village, Chinna Salam Taluk, Kallakurichi District, 150 years ago, for the purpose of carrying out weekly Bajanai and for the stay of Sadhus and pilgrims. During 1932 to 1934 and 1956, vast extent of lands have been gifted by them to the Madam for the purpose of providing Neiveidhyam during the weekly Bajanai and food to the Sadhus and Pilgrims during their stay and they were administering the day-to-day affairs of the Madam and its properties. Only the painted picture of Lord Nataraja embedded with valuable stones is worshiped and not any idol and the said Madam does not have any vigraha Vazhipadu, Aradhanai or Abisegham, chanting of any Sanskrit mantras or conducting any festival other than Thiruvadhurai and Karthigai Deepam. Only Thiruvasagam and Sivapuranam are chanted, that too by their family members. Ignoring the fact that the administration has been only in the hands of the family members for all these decades and unique customary practice is followed in worship and no qualities of the temple are present, the 3rd respondent has passed an order appointing the 4th respondent as the Non-Hereditary Trustee of the Madam. Challenging the same, the petitioner has filed the present writ petition before this court.



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5. Learned counsel for the petitioners submits that, the entire properties were gifted by the petitioners' ancestors, however, the petitioners have no right including the leasehold rights. The petitioners are only the administrative of the temple as a hereditary trustee. All of a sudden, the 3rd respondent had appointed the 4th respondent as non-hereditary trustee, which is wholly unsustainable. Further, she submitted that the 4th respondent had filed an application before the 2nd respondent for handing over of the charge and the said application was allowed, which is contrary to the decision rendered by this court in Review Application (Writ) Nos.169 and 170 of 2021. Accordingly, he prays for allowing the writ petition.

6. Per contra, learned Special Government Pleader appearing for the respondents 1 to 3 submitted that, though the petitioners claim that they are the hereditary trustees of the Madam, however no proof was filed before this court with regard to the hereditary-ship of the petitioners. Further, he submitted that there was a dispute with regard to appointment of non-hereditary trustee, thereby a fit person was appointed vide order dated 08.06.1998 and in that order, a direction was issued to



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the 1st petitioner to hand over all the charges to the fit person and subsequently, all the charges were handed over the fit person. Thereby, the petitioners have no right to claim as hereditary trusteeship. Further, the present impugned order appointing the 4th respondent as non-hereditary trustee was issued on 27.03.2023 and subsequently, the 4th respondent filed an application before the 2nd respondent as against the 2nd petitioner to transfer all the charges and an order was passed on 07.06.2024 as against the 2nd petitioner. Aggrieved by the same, instead filing an appeal before the appropriate authority, the petitioner had filed the present writ petition challenging the order appointing the 4th respondent as non-hereditary trustee is *per se* unsustainable. Accordingly, he prays for dismissal of the writ petition.

7. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 to 3 and perused the materials available on record.

8. Upon perusal of the order relied upon by the learned counsel for the petitioners passed by the Hon'ble Division Bench of this court, this court is of the view that the same is not applicable to the present case



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To

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M.DHANDAPANI, J.

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W.M.P.No.26644 of 2024
in
W.P.No.24383 of 2024

M.DHANDAPANI,J.

In view of amendment to the Court fee rules, this petition is allowed, subject to payment of single Court fee, within a period of two weeks, from the date of receipt of a copy of this order, failing which this order shall be applicable only to the first petitioner.

21.08.2024

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