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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.35550 of 2019

and

WMP.Nos.36400 of 2019 and 3002 of 2020

N.Ramesh

... Petitioner

Vs.

1. The Joint Commissioner,
HR & CE Department,
Salem.

2. The Assistant Commissioner,
HR & CE Department, Salem.

3. The Fit Person,
Arulmigu Mannadasamy Pachyee Amman Temple,
Maamkuppai, Omalur Taluk, Salem District.
Also the Executive Officer,
Arulmigu Vennangudi Muniappasamy Temple,
Zakir Ammapalayam, Salem.

4. Salem Omalur Maanguppai Arulmighu
Mannathasami and Sri Panchiamman Koil
Panagaligal Nirvagigal Sangam,
Rep. By its Secretary, Mr.A.Rathinavel,
S/o.Appusami, 4/172, Chinnapttan Nagar,
Maramangalathupatty,Salem-636030.
(4th respondent impleaded by this Court
dated 01.10.2024 in WMP.No.3002 of 2020
in WP.No.35550 of 2019)

... Respondents



Prayer: This Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the order dated 13.12.2019 passed by the third respondent, into its file, and quash the same and consequently, direct the first respondent to furnish the order dated 19.11.2019 of the learned Joint Commissioner, Salem made in Se.Mu.Na.Ka.No.9340/2019/E1 so as to enable the petitioner to challenge the same before the competent authority.

For Petitioner : Mr.V.Srikanth

For Respondent : Mr.T.S.Vijayaragavan R4
for Impleading respondent
Mr.S.Ravichandran, AGP (HR & CE)
RR1 & 2
Mr.K.Ganesan R3

ORDER

This petition has been filed seeking to quash the order dated 13.12.2019 passed by the third respondent and consequently, direct the first respondent to furnish the order dated 19.11.2019 of the Joint Commissioner, Salem so as to enable the petitioner to challenge the same before the competent authority.

2. It is the case of the petitioner that his great grandfather and another has been declared as Hereditary Trustees vide order dated 16.06.1993 in O.S.No.455/1932 on the file of the District Court, Sangagiri of the Arulmigu Pachaiamman Temple (hereinafter referred to as the temple) situated at Maanguppai, Chinnapoosariyur, Maaramangalathupatti, Omalur Taluk, Salem



District. Such being the position, one Raju Poosari and others have started to interfere with the management of the temple by the petitioner as hereditary trustee and also filed an application in O.A.No.2/2019 before the first respondent to frame a scheme and the same is still pending. In the meanwhile, the first respondent has appointed the 3rd respondent as a fit person by appointing an executive officer of the neighboring temple as a fit person vide order dated 19.11.2019. On 13.12.2019, the third respondent has passed the impugned order by directing the petitioner to hand over the administration of the temple. While this being so, the 3rd respondent had made an attempt on 17.12.2019 to take charge over the temple. Challenging the said impugned order dated 13.12.2019, the petitioner has filed the present writ petition.

3. The learned counsel for the petitioner submitted that by virtue of the impugned order, the third respondent is attempting to dispel the hereditary trustee who is in office for more than three generations and acting as per the civil decree. Before the appointment of the fit person to the temple, no notice has been caused upon the person in management. Further, the order of appointment of the fit person has not been communicate to the petitioner till date. Without giving opportunity to the petitioner, the present impugned order has been passed, which is unsustainable. The petitioner has already filed a



petition before the first respondent in O.A.No.2/2020 for appointment of the hereditary trustee under Section 63(b) of the HR & CE Act. Therefore, this Court may direct the first respondent to decide both the petition in OA.No.2/2020 filed by the petitioner for appointment of trustees and O.A.No.2/2019 filed by one Raju Poosari and others under Section 64(1) of the HR & Ce Act for framing of the scheme, on merits, within the stipulated time as fixed by this Court. However, this Court may decide the appointment of the fit person subject to the outcome of the proceedings before the first respondent.

4. The learned Government Counsel have not raised any objection in this regard.

5. The learned counsel for the third respondent submitted that for administration of the temple and set right the income of the temple, the second respondent has rightly appointed the fit person and the same does not warrant any interference.

6. Heard the learned counsel on either side and perused the materials available on record.



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7. Considering the facts and circumstances of the case and in view of the limited request sought for by the petitioner, this Court, without interfering with the impugned order , is inclined pass the following orders:

"i. The first respondent is directed to consider the petition in O.A.No.2/2020 filed by the petitioner along with O.A.No.2/2019 which was filed by one Raju Poosari and others and pass orders without influencing any of the order passed earlier, after providing opportunity to the petitioner as well as the private respondent within a period of six months from the date of receipt of a copy of this order;

ii. the Fit person/third respondent is directed to open the temple and do pujas as per the customary practice followed earlier and allow the petitioner and the private respondent to worship the deity;

iii. As per the order passed by this Court dated 05.02.2020, the keys of the temple was handed over to the Assistant Commissioner of Police, Suramangalam Police Station and the same is modified; and

iv. The Assistant Commissioner of Police shall hand over the keys to the Fit person to open the temple as per the customary practice, until further orders."

8. With the above directions, this Writ Petition is disposed of. However,



the appointment of the fit person is subject to the outcome of the decision taken by the first respondent in OA.No.2/2019 and OA.No.2/2020. No costs.

Consequently, connected miscellaneous petition is also closed.

01.10.2024

To

1. The Joint Commissioner,
HR & CE Department,
Salem.

2. The Assistant Commissioner,
HR & CE Department,
Salem.



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M.DHANDAPANI,J.

Rli

W.P.No.35550 of 2024

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