



C.R.P(MD).No.2278 of 2008  
and  
AS.No.646 of 1985

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

|               |   |            |
|---------------|---|------------|
| Reserved on   | : | 28.03.2024 |
| Pronounced on | : | 12.07.2024 |

CORAM:

**THE HON'BLE Mr. JUSTICE K.K.RAMAKRISHNAN**

C.R.P.(MD).No.2278 of 2008

and

A.S.No.646 of 1985

and

M.P(MD).No.1 of 2013

C.R.P.(MD).No.2278 of 2008:

1. N.Chokkiah Naidu  
Hereditary Trustee cum Poojari  
Sri Mariyamman temple, Natham,  
Dindigul(District)

2. N.Chinnaraj

3. N.Subburaj

4. N.Natarajan

... Petitioners

Vs.

1.The Executive Officer,  
Sri Mariyamman Temple,  
Natham, Dindigul (District)



C.R.P(MD).No.2278 of 2008  
and  
AS.No.646 of 1985

2. The Commissioner,  
H.R.& C.E., Chennai-34.

... Respondents

**PRAYER** : Civil Revision Petition filed under Article 227 of Constitution of India, praying to allow the Civil Revision Petition and dismiss the petition in I.A.No.276 of 2006 and in O.S.No.108 of 2006 on the file of the District Munsif-cum-Judicial Magistrate, Natham.

For Petitioners : Mr.S.Ravichandran

For Respondents : Mr.K.Govindarajan for R1  
: Mr.A.K.Manikkam,  
Special Government Pleader for R2

A.S.No.646 of 1985:

1. The Executive Officer,  
Arulmigu Mariamman Temple,  
Natham Town & Taluk,  
Dindigul District.

2. The Commissioner,  
H.R.& C.E., Department,  
Madras-34.

... Appellants

Vs.

1.C.Nallusamy (died)

2. C.N.Chokkiah Naidu (died)

3. C.N.Chinnaraj

4. C.N.Subburaj (died)



C.R.P(MD).No.2278 of 2008  
and  
AS.No.646 of 1985

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5. C.N.Natarajan (died)

*(R2 to R5 are brought on record as LRs of the deceased sole respondent vide Order dated 1.8.2012 and made in M.P.(MD).Nos.2 to 4 of 2010 in A.S.No.646/1985)*

6. Kaladevi

7. Krishnamoorthy

8. Suresh

9. Angalaparameshwari

*(Respondents 6 to 9 brought on record as Lrs of the deceased 4<sup>th</sup> respondent vide Court order dated 09.08.2016 made in M.P(MD).Nos.1 & 2 of 2015 in A.S.No.646 of 1985)*

10. Pakialakshmi

11. Kanagavalli

12. Sasikala

13. Vani

14. Ganesh

*(Respondents 10 to 14 are brought on record as Lrs of the deceased 2<sup>nd</sup> Respondent vide common order dated 22.09.2023 made in C.M.P(MD).Nos.12330, 12332 to 12335 and 12337 of 2023 in A.S.No.646 of 1985)*

15. Susila

16. Yuvaraja



C.R.P(MD).No.2278 of 2008  
and  
AS.No.646 of 1985

17.Dinesh Kumar

... Respondents

*(Respondents 15 to 17 are brought on record as Lrs of the deceased 5<sup>th</sup> Respondent vide common order dated 22.09.2023 made in C.M.P(MD).Nos.12330, 12332 to 12335 and 12337 of 2023 in A.S.No. 646 of 1985)*

**PRAYER:** This Appeal Suit has been preferred against the Judgment and Decree dated 18.02.1983 in O.S.No.734 of 1980 on the file of the I Additional Sub Judge, Madurai.

For Appellants : Mr.K.Govindarajan  
for Mr.D.Rajkumar  
for 1<sup>st</sup> Appellant  
: Mr.A.K.Manikkam,  
Special Government Pleader  
for 2<sup>nd</sup> Appellant

For Respondents : Mr.R.T.Arivukumar, for R3, R7 to R17  
: Mr.K.Karthick for R6

### **COMMON ORDER**

The Hindu Religious and Charitable Endowments Department filed this appeal challenging the judgment degree passed in O.S.No.734 of 1980 dated 18.02.1983 on the file of I Additional Sub Judge, Madurai.



C.R.P(MD).No.2278 of 2008  
and  
AS.No.646 of 1985

WEB COPY

2. The suit in O.S.No. 734 of 1980 has been filed by the respondent herein seeking for the relief of declaration that he is the “hereditary trustee” of the temple of Arunachalam and the department has no right to interfere with the said temple Administration. In the plaint, it is stated that the HR and CE department interfered in the administration of temple and hence, he filed the O.A. The property is Arulmigu Mariamman Temple property situated in Natham and they have number of properties. During the Inam enquiry in the year 1864, Inam title was considered under Inam Title Deed 705 by the Inam Commissioner in favour of “Elugan”, who was none other than the great grandfather of “Nallusamy” as a worshipper. He was enjoying the properties and performing the pujas and other karyam/rituals of the said temple and the entire temple was under management of the said Elugan and the successor in interest. Finally, Nallusamy and others were managing the temple as a hereditary trustee and pujari. He had also obtained the settlement inam patta under the Tamil Nadu Minor Inam (Abolition and Conversion into Ryotwari) Act, 1965. Against which, the appeal was preferred in C.M.A.No.47 of 1969 and the same was confirmed by the Competent Court and also this Court. Hence, the plaintiff was in possession



C.R.P(MD).No.2278 of 2008  
and  
AS.No.646 of 1985

of the 20 acres of the endowed land in Natham with other properties from 1864 onwards and they have got the title of the suit schedule properties in legal manner. In that situation, one Abbas made claim as the trustee of the Arulmighu Mariamman Temple and the same was opposed by the respondents. Hence, they had submitted petition before the HR & CE authorities to take action against him. Subsequently, the HR & CE department issued notice to the respondent's father. Therefore, he filed the application in O.A.No.32 of 1977 before the Deputy Commissioner of Hindu Religious and Charitable Endowment Act under Section 63(b) of the Tamil Nadu Hindu Religious and Charitable Endowment Act for declaration as hereditary trustee and Poojariship to the temple for the plaintiff and also hereditary trusteeship as per scheme before the Deputy Commissioner and the same had been dismissed. Thereafter, appeal was preferred and appeal was also confirmed. Against which, petition also was filed before the Commissioner and the same also was dismissed. Therefore, statutory suit under HR & CE has been filed under Section 70 of the HR & CE Act by the respondent seeking the relief of the declaration of the hereditary trusteeship and management of the properties of the temple. The HR & CE department



C.R.P(MD).No.2278 of 2008  
and  
AS.No.646 of 1985

resisted the claim saying that they are not entitled for the hereditary ship and all the authorities considered the plea and dismissed the claim and hence they are not entitled to seek the relief.

2.1.Further, the Plaintiff is not entitled to seek any relief. The suit was decreed by the learned Trial Judge after considering the various documents filed by Nalluchami namely the respondent herein and also considered Ex.P. 13, wherein it is clearly stated that the temple was exempted in the year 1938 onwards and hence, there was no jurisdiction for the HR & CE authority to invoke the same. Thereafter, appeal was preferred by the HR & CE department, in A.S.No.646 of 1985 before this Court. During the pendency of the appeal, the said Nalluchami died on 3.05.1993. In spite of that, the appeal was allowed against the dead person. Hence, the SLP was preferred before the Supreme Court. Pending the appeal, another attempt was made by the HR & CE department to appoint a non-hereditary trustee in the temple administration. Hence, the subsequent suit was filed in O.S.No. 108 of 2006 seeking relief of permanent injunction restraining HR & CE Department from appointing any person during the pendency of the appeal



C.R.P(MD).No.2278 of 2008  
and  
AS.No.646 of 1985

before the Supreme Court. The Hon'ble Supreme Court allowed the appeal and remitted it back to decide the matter afresh after hearing legal heirs. Hence, the first appeal was restored and the same was pending. Pending the same, the authorities also took a decision to appoint a non-hereditary trustee.

2.2.Subsequently, a fit person was appointed. In the said circumstances, a writ petition was filed before this Court to quash the proceedings of this Court appointing a fit person to maintain the temple affairs and direct the parties to redress their grievances in the appeal suit pending before this Court in A.S.No.646 of 1985 as well as the suit pending before the Court below. In the meantime, the HR & CE department filed a petition under Section 10 of CPC., in O.S.No.108 of 2006 and the same was allowed and hence, the legal heirs of the Nalluchami filed the civil revision petition to set aside the order. Both are clubbed together and hence both are heard together.



C.R.P(MD).No.2278 of 2008  
and  
AS.No.646 of 1985

3.The learned counsel for the appellant and the revision petitioner made the submission that the petitioner is the hereditary trustee of the said temple attached with pujariship. From the year 1894 onwards, their great grandfather was acting as a trustee and Pujari and maintaining the properties under Ex.P.13 and the commissioner also passed the order. In the said circumstances, the interference of the HR & CE department is not legal and also the Inam register, 1894 reaffirmed the Inam settlement proceedings taken under the Act 30 of 1963 and hence, they have obtained patta and the same was confirmed by this Court in STA proceedings. In the said circumstances, they are entitled for the relief of hereditary trusteeship and maintain the temple and Poojariship and also the properties of the temple. In the said circumstances, the learned trial judge correctly dismissed the suit.

4.The learned counsel for appellant, the HR&CE department submitted that the Court below failed to see that even though the declaration stated that the temple is exempted, but due to the subsequent development, the HR&CE department has jurisdiction to interfere in the same. The same was not considered by the both the learned trial judge and the seeks for the



C.R.P(MD).No.2278 of 2008  
and  
AS.No.646 of 1985

interference in the administration. All the authorities gave the categorical finding that they are not entitled for relief of hereditary trusteeship and Poojariship and seeking for allowing of the appeal.

5.This court considered the rival submission, perused the materials available on records and also frame the following points for determination.

6.Whether the court below is correct or not in decreeing the suit by accepting the plea of the petitioner's hereditary trusteeship to the temple?

7.As narrated above, the Elugan, was the ancestor of the present respondents, namely the great grandfather of the respondent. He had obtained the inam settlement in 1894. From that day onwards, they are conducting the phujas as Poojari and acting as a trustees. They are also enjoying the property allotted under said inam settlement for the temple welfare. Subsequently they had applied and obtained the settlement patta under Tamil Nadu Minor Inam Abolition Act, 30/1965 from the competent authority. The said issuance of settlement patta confirming their title, has



C.R.P(MD).No.2278 of 2008  
and  
AS.No.646 of 1985

been challenged before the competent Court in C.M.A.No.47 of 1969, by the HR & CE Department. The same had been dismissed. Further, appeal in S.T.A.No.201 of 1974 had also been preferred before this Court. The Hon'ble Division Bench of this Court had confirmed the same. In view of that, there is a categorical finding of the earlier above proceeding that they are the hereditary trustee and they are entitled to the properties to maintain the temple welfare.

8. Apart from that when a separate proceedings was initiated by the private individual, impleading HR & CE Department to take action against the said plaintiff's ancestor had been negatived holding that there was no mismanagement and the temple was exempted by order dated 11.03.1930. The HR & CE Department itself declared that the said temple was exempted temple on 11.03.1930. Therefore, without any allegation that they are doing some mischief or mismanaging, the HR & CE authorities has no jurisdiction to interfere in the administration of the legal heirs of the said “Elugan” and hence, this Court is inclined to dismiss the appeal confirming the finding of the learned trial judge.



C.R.P(MD).No.2278 of 2008  
and  
AS.No.646 of 1985

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9. The learned trial judge considered every aspect and gave a finding that temple belongs to “Elugan” and they constructed temple, and the same is under their management and they are acting as the hereditary trustees and also doing the pujas and also managing the properties devolved upon them under the Inam register. In the such circumstances, this court finds no merit to interfere in the finding of the learned trial judge and the judgment and decree in O.S.No.734 of 1984 dated 18.02.1983 is liable to be confirmed with the following observation:

(i)The legal heirs of the Naluchami is entitled for the hereditary trusteeship and also pujariship and they are entitled to manage the properties without alienation and detriment to the value of the properties and hence, the appeal is liable to be dismissed.

10.Pending adjudication of this first appeal HR & CE Department, once again tried to interfere with the administration of the plaintiff and hence, subsequent suit in O.S.No.108 of 2006 was filed and Section 10 application filed by the HR & CE department is without the jurisdiction and hence, the fair and decreetal order in I.A.No.276 of 2006 in O.S.No.108 of



C.R.P(MD).No.2278 of 2008  
and  
AS.No.646 of 1985

2006, on the file of the District Munsif-cum-Judicial Magistrate, Natham, is hereby set aside. Accordingly, this Civil Revision Petition is allowed.

11. With the above observation, the Appeal Suit is hereby dismissed and the judgment and decree dated 18.02.1983 in O.S.No.734 of 1980 on the file of the I Additional Sub Judge, Madurai, is hereby confirmed. No costs.

12. In view of the above dismissal of the appeal suit in A.S.No.646 of 1985, upon perusal of the material placed before the Court below, the respondent prayed to receive the additional document under Order 41 Rule 27 of C.P.C., deserves to be closed. Hence, the connected miscellaneous petition in M.P.(MD).No.1 of 2013 is closed.

**12.07.2024**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes / No  
Vsg



C.R.P(MD).No.2278 of 2008  
and  
AS.No.646 of 1985

**To**  
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1. The I Additional Sub Judge,  
Madurai.
2. The District Munsif-cum-Judicial Magistrate,  
Natham.
3. The Commissioner,  
H.R.& C.E., Chennai-34.
4. The Special Government Pleader,  
Madurai Bench of Madras High Court, Madurai.
5. The Section Officer,  
VR Section(Records)  
Madurai Bench of Madras High Court, Madurai.



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C.R.P(MD).No.2278 of 2008  
and  
AS.No.646 of 1985

**K.K.RAMAKRISHNAN, J.,**

vsg

C.R.P.(MD).No.2278 of 2008  
and  
A.S.No.646 of 1985  
and  
M.P(MD).No.1 of 2013

12.07.2024