



W.P.(MD)Nos.330 and 331 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 08.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)Nos.330 and 331 of 2024
and W.M.P.(MD)Nos.331, 332, 342 and 343 of 2024

W.P.(MD)No.330 of 2024

A.Devendran

... Petitioner

versus

1. The Commissioner,
Hindu Religious and Charitable
Endowments Department,
Chennai.

2. The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department,
Madurai.

3. The Fit Person cum Executive Officer,
Arulmigu Kaala Katheeswarar Temple,
Dindigul.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India,
seeking for the issuance of Writ of Certiorari, to call for the records
relating to the impugned order dated 21.09.2016 passed in O.A.No.17



W.P.(MD)Nos.330 and 331 of 2024

of 2016 by the second respondent and quash the same.

WEB COPY

For Petitioner : Mr.J.Barathan

For Respondents : Mr.P.Subba Raj,
Special Government Pleader

W.P.(MD)No.331 of 2024

A.Devendran

... Petitioner

versus

1. The Commissioner,
Hindu Religious and Charitable
Endowments Department,
Chennai.

2. The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department,
Madurai.

3. The Fit Person cum Executive Officer,
Arulmigu Kaala Katheeswarar Temple,
Dindigul.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorari, to call for the records relating to the impugned public auction cum tender notification dated 22.12.2023 issued by the third respondent in Tamil Sudar daily dated 24.12.2023 in respect of the Chozhia Maruthuva Kattalai, Dindigul and



W.P.(MD)Nos.330 and 331 of 2024

quash the same.

WEB COPY

For Petitioner : Mr.J.Barathan

For Respondents : Mr.P.Subba Raj,
Special Government Pleader

COMMON ORDER

The petitioner belongs to Chozhia Maruthuva Community, which was administering Thirukkan Mandagapadi for Thadikombu Sri Soundararaja Perumal during Chithirai month. The forefathers of the petitioner have established the Thirukkan Mandagapadi and also established a Trust in the year 1958. Thereafter, they have filed applications in O.A.Nos.5 of 1987 and 25 of 1989 before the Deputy Commissioner of HR&CE Department, under Section 64(1) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, for framing a scheme. The Deputy Commissioner of HR&CE Department, by order dated 26.11.1993, framed a scheme. As per the scheme, the properties of the trust shall be administered by a Board of Trustees chosen by the descendants of thirteen families of Chozhia



W.P.(MD)Nos.330 and 331 of 2024

Maruthuva Community. As per the Scheme, the Trustees have been elected till 2010.

2. While so, the Joint Commissioner of the HR&CE Department, Madurai, without conducting an election, appointed a Fit person, which was challenged before this Court in W.P.(MD)No.15699 of 2015 and the same was dismissed by this Court by order dated 23.09.2015. As against the same, the Chairman of Board of Trustees filed a Writ Appeal before this Court in W.A.(MD)No.114 of 2015. The Division Bench of this Court, by order dated 02.11.2015, disposed of the writ appeal with a direction to the Joint Commissioner, HR&CE Department, Madurai, to appoint a new set of Trustees as per the scheme framed on 26.11.1993 in O.A.Nos.5 of 1987 and 25 of 1989. Pursuant to the order of this Court in W.A.(MD)No.114 of 2015, dated 02.11.2015, the Joint Commissioner of HR&CE Department, Madurai, has issued a notice for appointment of Trustees. However, the Joint Commissioner, without appointing the Trustees, has passed an order



W.P.(MD)Nos.330 and 331 of 2024

dated 21.09.2016 in O.A.No.17 of 2016 in a *suo motu* revision, cancelling the scheme framed in O.A.Nos.5 of 1987 and 25 of 1989 and the same is challenged in W.P.(MD)No.330 of 2024.

3. Now, the 3rd respondent has intended to lease out the trust properties, for which, he has issued a tender notification dated 22.12.2023 for conducting an auction on 09.01.2024. The said notification is under challenge in W.P.(MD)No.331 of 2024.

4. The learned counsel appearing for the petitioner submits that thirteen families of the Chozhia Maruthuva Community were not issued with any notice and behind their back, the impugned order dated 21.09.2016 has been passed and that too by invoking a *suo motu* revision by the Joint Commissioner of HR&CE Department, who has appointed a Fit person, without conducting an election as per the scheme framed in the year 1993. Only on verification, the petitioner came to know about the impugned order passed by the Joint



W.P.(MD)Nos.330 and 331 of 2024

Commissioner in O.A.No.17 of 2016 dated 21.09.2016. He further submits that this Court, by order dated 02.11.2015, in W.A.(MD)No. 1141 of 2015, passed an order directing the Joint Commissioner to appoint trustees for the trust properties. Without complying the direction of this Court dated 02.11.2015, the respondents 2 and 3 issued the impugned tender notification dated 22.12.2023 in Tamil Sudar daily dated 24.12.2023, which is not having wide circulation in that area. Therefore, he prays for allowing these writ petitions.

5. The learned Special Government Pleader appearing for the respondents submits that the writ petition in W.P.(MD)No.330 of 2024 filed as against order of the Joint Commissioner of HR&CE Department, Madurai, dated 21.09.2016, passed in O.A.No.17 of 2016, cannot be entertained at this stage and therefore, it is liable to be dismissed on the ground of laches.



W.P.(MD)Nos.330 and 331 of 2024

6. Insofar as W.P.(MD)No.331 of 2024 is concerned, the learned

Special Government Pleader appearing for the respondents submits that the Temple administration has requested the District Administration to publish the tender notification and it is on the wish of the Public Relations Officer to select the newspaper. As per the wish of the Public Relations Officer, the tender notification dated 22.12.2023 has been published in Tamil Sudar daily dated 24.12.2023. According to them, the Tamil Sudar Daily is having wide circulation.

7. The learned Special Government Pleader further submits that if it is the only grievance of the petitioner that the Tamil Sudar Daily is not having wide circulation, they are also inclined to issue a fresh tender notification in any prime newspaper which is having wide circulation in that area.

8. This Court considered the rival submissions made.



9. The petitioner belongs to Chozhia Maruthuva Community, which was administering Thirukkan Mandagapadi for Thadikombu Sri Sundararaja Perumal during Chithirai month. The forefathers of the petitioner have established the Thirukkan Mandagapadi and established a Trust in the year 1958 and entrusted some properties for administration of the Mandagapdi. The Mandagapadi was initially administered by Chozhia Maruthuva Community people on the scheme framed by the Deputy Commissioner of the HR&CE Department in O.A.Nos.5 of 1987 and 25 of 1989, by order dated 26.11.1993. The relevant portion is extracted as under:

“The above mentioned Trust viz. Choliya Maruthuvar Mandagapadi Trust, Meenakshinaickanpatti, Dindigul Taluk, Dindigul District and its properties shall be administered by a Board of Trustees consisting of members not exceeding 5, chosen by the descendents of 13 families of Choliya Maruthuva Community and appointed by the Assistant Commissioner, HR&CE Department, Madurai, or appropriate authority subject to the provisions of the new amended Act 46 of 1991 for a period of 3 years. Such trustees shall elect one among



themselves as Chairman Board of Trustees as per the provisions of the New Act.”

10. As per the scheme dated 26.11.1993, the Trustees have been elected till 2010 and when the period of the trustees was about to over, the second respondent/Joint Commissioner of HR&CE Department, Madurai, has appointed a Fit person for the administration of the trust properties by order dated 22.08.2015, which was challenged by the then trustees in W.P.(MD)No.15699 of 2015 and the same was dismissed on 23.09.2015. However, in the appeal filed by the then Trustees in the W.A.(MD)No.1141 of 2015, a Division Bench of this Court has passed the following order:

“8. Though in the appeal, the appellant has raised several issues regard to the procedure contemplated for the appointment of fit person, we are of the considered view that so long as the scheme framed way back in 1993 is in force, the issue could be resolved by the competent authority conducting an election and appointing new set of trustees within a time frame. That alone, will bring to



an end the disputes if any. The appointment of a fit person is always contemplated to be a stopgap arrangement and such stopgap arrangement cannot be for a long period of time. Therefore, without expressing any opinion on the merits, the writ appeal is disposed of directing the first respondent to appoint a new set of trustees as per the scheme framed on 26.11.1993 in O.A.Nos.5 of 1987 and 25 of 1989 within a period of eight weeks from the date of receipt of a copy of this Judgement.”

11. Thereafter, the second respondent has also issued a notice for appointment of trustees. However, without proceeding with the election, the second respondent, in a *suo motu* revision, in O.A.No.17 of 2016, passed an order dated 21.09.2016, cancelling the scheme framed by the Deputy Commissioner on 26.11.1993. This, according to the learned counsel for the petitioner, is without any notice to thirteen families of Chozhia Maruthuva Community.



W.P.(MD)Nos.330 and 331 of 2024

12. The learned Special Government Pleader has raised an objection stating that the order dated 21.09.2016 passed by the Joint Commissioner of HR&CE Department, Madurai, is challenged in W.P. (MD)No.330 of 2024 and it cannot be entertained at this stage on the ground of laches.

13. The petitioner is also raising another ground that the impugned order dated 26.11.2016 has been passed, in a *suo motu* revision, by the Joint Commissioner, who has appointed a Fit person in the year 2015, without following the scheme framed in the year 1993.

14. If the petitioner is aggrieved by the impugned order dated 26.11.2016, he can approach the first respondent/the Commissioner of HR&CE Department, Chennai and file an appeal under Section 69(1) of HR&CE Act.



W.P.(MD)Nos.330 and 331 of 2024

15. Accordingly, W.P.(MD)No.330 of 2024 is dismissed with liberty to the petitioner to file an appeal before the first respondent/the Commissioner of HR&CE Department, Chennai, under Section 69(1) of the HR&CE Act by assigning valid reasons for the delay in filing the appeal.

15. Insofar as W.P.(MD)No.331 of 2024 is concerned, the grievance of the petitioner is that the trust properties are brought for lease without proper paper publication.

16. Admittedly, the tender notification dated 22.12.2023 has been published in Tamil Sudar daily dated 24.12.2023. According to the petitioner, this Tamil Sudar daily newspaper is not having wide circulation in that area.

17. The learned Special Government Pleader submits that it is on the wish of Public Relations Officer to select the newspaper. If it is the



W.P.(MD)Nos.330 and 331 of 2024

only concern of the petitioner that the impugned notification is issued without proper paper publication and the Tamil Sudar Daily newspaper is not having wide circulation, the respondents are ready to publish a fresh tender notification in any of the newspapers having wide circulation in that area.

18. In view of the said submission, W.P.(MD)No.331 of 2024 is allowed and the impugned tender notification dated 22.12.2023 issued by the third respondent in Tamil Sudar daily dated 24.12.2023 in respect of the Chozhia Maruthuva Kattalai, Dindigul, is hereby set aside. Liberty is granted to the respondents to issue a fresh tender notification in any one of the daily newspapers, which is having wide circulation and conduct auction in an appropriate manner. No costs. Consequently, connected miscellaneous petitions are closed.

08.01.2024

ogy
NCC : Yes / No.
Index : Yes / No.
Internet : Yes / No.



WEB COPY



W.P.(MD)Nos.330 and 331 of 2024



WEB COPY



W.P.(MD)Nos.330 and 331 of 2024

B.PUGALENDHI, J.

ogy

To

1. The Commissioner,
Hindu Religious and Charitable
Endowments Department,
Chennai.
2. The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department,
Madurai.
3. The Fit Person cum Executive Officer,
Arulmigu Kaala Katheeswarar Temple,
Dindigul.

W.P.(MD)Nos.330 and 331 of 2024

08.01.2024