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W.P.(MD) No.15587 of 2012

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.01.2024

CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

W.P.(MD) No.15587 of 2012

and

M.P.(MD) Nos.1 & 2 of 2012

K.Paulraj

... Petitioner

-vs-

1.The Assistant Commissioner
Hindu Religious & Charitable Endowment Board
Tirunelveli

2.The Executive Officer
Arulmigu Thirumoola Vinayagar Temple
Senthamaram Village
Sankarankovil Taluk, Tirunelveli District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records of the order passed by the first respondent in his proceedings Se.Mu.Na.Ka.No.1334/2012.E1, dated 01.11.2012 and quash the same and forbearing the second respondent from taking charge in the Arulmigu Thirumoola Vinayagar Temple, Senthamaram Village, Sankarankovil Taluk, Tirunelveli District.



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For Petitioner : Mr.R.T.Arivukumar

For Respondents : Mr.P.Thilakkumar
Government Pleader for R1
No appearance for R2

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

The order dated 01.11.2012, passed by the first respondent, appointing the second respondent / Executive Officer of Arulmigu Thirumoola Vinayagar Temple, Senthamaram Village, Sankarankovil Taluk, Tirunelveli, which is a Private Temple, as a fit person for the said Temple and directing the petitioner, who is the Trustee of the said Temple, to handover the administration of the said Temple to the fit person, is under challenge in this writ petition.

2. According to the petitioner, one Sundaram Asari established the subject Temple and consecrated the idol in the sanctum sanctorum of the Temple. Sundaram Asari had four sons, namely, Ganapathy Asari, Palani Asari, Meenakshi Sundaram Asari and Arunachalam Asari. Properties were acquired for the said Temple by the descendants of the said Sundaram Asari.



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The said Temple was under the exclusive control of the said Sundaram Asari and thereafter, it was under the control of his sons. Subsequently, the brothers of the said Sundaram Asari, namely, Kadarkaraiaandi Asari, Both Kannu Asari, Chidambaram Asari, Palani Asari, Appadurai Asari and Shunmuga Sundaram Asari were the custodians of the said Temple. The petitioner is the son of the said Kadarkaraiaandi Asari, brother of the said Sundaram Asari. He is the sole Trustee and administering the said Temple. While that being so, the first respondent, by the impugned proceedings, has appointed a fit person to the said Temple, without providing any opportunity of hearing to the petitioner. Therefore, according to the petitioner, the impugned order is in violation of the principles of natural justice.

3. The second respondent has filed a counter affidavit, wherein he has stated that one P.S.G.Jayaraj made a complaint that the petitioner sold the properties belonging to the said Temple by creating forged documents, which has resulted in appointing the fit person to the said Temple by the first respondent. Further, pursuant to the order passed by the first respondent, the fit person has also taken charge of the said Temple as early as on 09.11.2012.



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6. In view of the above position, when the petitioner is having effective alternative remedy of appeal, he has to necessarily exhaust the appeal remedy. Therefore, the petitioner is at liberty to file an application under Section 21-A(5) of the Act and raise all the points before the Joint or Deputy Commissioner, H.R. & C.E.Department, within a period of two weeks from the date of receipt of a copy of this order. On filing such application, the Joint or Deputy Commissioner, H.R. & C.E.Department shall consider the same and pass orders on merits and in accordance with law, as expeditiously as possible.

7. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

[D.K.K., J.]

[R.V., J.]

04.01.2024

(1/3)

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To:
The Assistant Commissioner,
Hindu Religious & Charitable Board,
Tirunelveli.



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