



W.A.(MD) No.1379 of 2017

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.06.2024

CORAM:

**THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**W.A.(MD) No.1379 of 2017
and
C.M.P(MD)No.9836 of 2017
and
C.M.P(MD)Nos.5629, 5632 & 5634 of 2024**

1.Meenakshi
2.Perumal Pallavarayar (died) ...Appellants/4th & 6th respondents
3.Muthu Anandan
4.Chandra Sekar
5.Selvam
(Appellants 3 to 5 are impleaded as LR's
of the deceased 2nd appellant as per
the order of this Court, dated 02.04.2024) ...Appellants 3 to 5

-VS-

1.N.Lalitha1st Respondent/Writ Petitioner
2.The Commissioner,
Hindu Religious and Charitable
Endowment Department,
Nungambakkam High Road,
Chennai-34.

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3.The Executive Officer,
Arulmigu Swami Nellaiyappar and
Kanthimathiamman Temple,
Tirunelveli Town,
Tirunelveli District.

4.The Managing Trustee,
Arulmigu Swami Nellaiyappar and
Kanthimathiamman Temple,
Tirunelveli Town,
Tirunelveli District.

...2 to 4 Respondents/
1 to 3 Respondents

5.Minnammal @ Vijayalakshmi

...5th Respondent/5th Respondent

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order,
dated 21.09.2017, passed in W.P.(MD) No.9457 of 2011.

For Appellants	:	Mr.D.Nallathambi
For R1	:	Mr.Deepak Arasu for Mr.H.Arumugam
For R2	:	Mr.P.Subburaj Special Government Pleader
For R3	:	Mr.S.Madhavan



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J U D G M E N T

[Judgment of the Court was made by K.RAJASEKAR, J.]

This Writ Appeal has been filed by the respondents 4 & 6 in the writ petition challenging the order of the Writ Court passed in W.P(MD)No.9457 of 2011, dated 21.09.2017.

2. For the sake of convenience, the parties are referred to according to their litigative status before the writ Court.

3. Originally, the writ petitioner has filed a writ petition seeking to set aside the order passed in R.P.No.23/2010 D2 by the first respondent, the Commissioner, Hindu Religious and Charitable Endowment Department, Nungambakkam High Road, Chennai, dated 08.03.2011 and to direct the first respondent to decide the revision petition.

4. The writ petitioner claims that she is one of the legal heir of the Nataraja Pallavarayar, who was having a right to perform the Job of Archakar of Arulmigu Puttarathi Amman Temple, Tirunelveli Town. The petitioner's father died leaving behind the petitioner, mother, sister/5th respondent and brother as legal representatives. After the death of her brother, his wife Meenakshi/4th



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respondent in the writ petition was allowed to perform the Poojas. All of a sudden, the third respondent passed a resolution stating that the female heirs are not entitled to succeed the rights of Poojariship and based on the said resolution, the second respondent passed an order permitting the fourth respondent, being a male heir to take the turn after the life time of the mother of the petitioner. Aggrieved over the same, her mother filed an appeal before the Joint Commissioner, which ended in dismissal and the subsequent review petition filed by her was also dismissed. Challenging the said order, her mother filed a revision before the first respondent in R.P.No.23/10D2 and obtained an interim order. During the pendency of the appeal, her mother died on 03.02.2011, leaving behind herself and her sister as legal heirs. The petitioner and her sister filed a impleading petition seeking to implead themselves as legal representatives. By the impugned order, dated 08.03.2011 the Commissioner, HR & CE, Chennai has recorded in his proceedings that since the original petitioner Subbalakshmiammal died on 03.02.2011, the revision petition is abated and closed all the further proceedings. Further, the Commissioner has directed the legal heirs of Subbalakshmiammal to approach the temple authorities to get their pooja rights recognised.



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5. Aggrieved over the said order, the fifth respondent in the revision petition has filed the writ petition. Single Judge of this Court, by order dated 21.09.2017, has set aside the order passed in the revision petition and directed the respondents 1 & 2 to hear the matter afresh after affording an opportunity of hearing to all the parties including the petitioner.

6. Aggrieved over the same, the fourth respondent in the writ petition has filed the present writ appeal.

7. The learned counsel appearing for the appellant would submit that as per the order passed in the revision petition, already the writ petitioner has chosen to submit a representation to the Joint Commissioner, HR & CE seeking recognition of Pooja rights and after filing of the above petition, she has preferred a writ petition and since the order has been passed by the Commissioner exercising the revisional jurisdiction, directing the Commissioner to decide the same afresh, is not necessary and the appropriate authority, to consider the rights of the parties, is Joint Commissioner, HR & CE. Further, since she has already



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exercised her option to approach the Joint Commissioner, the order passed by the writ Court is liable to be set aside.

8. Learned counsel for the writ petitioner submitted that it is true that the representation has already been filed before the Joint Commissioner, HR & CE, however, in the revision order itself it has been stated that there was a impleading petition pending before the Commissioner and it was not numbered, instead of hearing them, he has chosen to dismiss the same is not proper.

9. Admittedly, the Commissioner of HR & CE has directed the writ petitioner to approach the Temple Authorities to recognise their rights. Similarly, the Writ Court has also remanded the matter and directed the authorities to hear the matter afresh. Since the matter is relating to Pooja rights and it requires detailed enquiry and if the enquiry is being conducted before the Joint Commissioner, HR & CE it would be convenient to both parties to adduce their evidence and to put forth their rights.

10. Pending the writ appeal, the 5th respondent died and the appellant has filed the petitions to condone the delay in filing the petition to set



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aside the abatement caused due to the death of the fifth respondent and to bring on record the legal heirs of the deceased 5th respondent. Since no adverse orders have been passed as against the 5th respondent, there is no necessity to allow all the petitions. Accordingly, all the petitions are closed.

11. Accordingly, the order of the writ Court is modified and the Joint Commissioner, HR & CE, Palayamkottai, Tirunelveli is directed to conduct an enquiry on the basis of the representation dated 22.04.2011 and to dispose the same within a period of four (4) months from the date of receipt of a copy of this order after issuing fresh notice to all the parties and the legal heirs of the fifth respondent.

12. In view of the above, this writ appeal is disposed of. No costs. Consequently, all the miscellaneous applications are closed.

[A.D.J.C., J.] [K.R.S., J.]

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To:

- 1.The Commissioner,
Hindu Religious and Charitable
Endowment Department,
Nungambakkam High Road,
Chennai-34.

Copy To:-

The Joint Commissioner,
HR & CR,
Palayamkottai,
Tirunelveli-2.



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A.D.JAGADISH CHANDIRA, J.
AND
K.RAJASEKAR, J.

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