



W.P.No.8144 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:06.03.2025

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THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.8144 of 2025

And

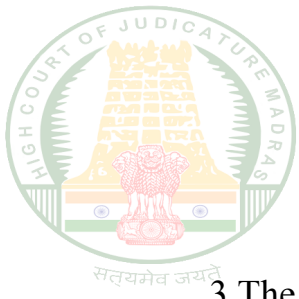
W.M.P.Nos.9123 and 9125 of 2025

P.EkambaramGurukkal
(S/o late PunniyakotiGurukkal)
Hereditary Trustee of ArulmiguPunniyakoteswarar Temple
No.46/16B, North Mada Street,
Kancheepuram Nagar,
KancheepuramTaluk and District. .. Petitioner

/versus/

1.The Commissioner of Tamil Nadu Hindu Religious and
Charitable Endowment Department (HR & CE)
119, Uthamar Gandhi Road,
Nungambakkam, Chennai 600 034.

2.The Joint Commissioner,
Tamil Nadu Hindu Religious and Charitable Endowment
Department (HR & CE),
HR & CE Department, District Collectorate Campus,
Kancheepuram 631 501.



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3.The Assistant Commissioner,
Tamil nadu Hindu Religious and Charitable Endowment
Department (HR & CE),
HR & CE Department, District Collectorate Campus,
Kancheepuram 631 501.

4.The Executive Officer (Fit Person),
ArulmiguVazhagaruthiswarar and ParasathiwaraThirukovil,
Gandhipuram Road, Kancheepuram. .. Respondents

Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records pertaining to the impugned order of the 3rd respondent in proceedings No.Se.Mu.Na. Ka.No.4629/2010/A3/ dated 21.01.2025 appointing the 4th respondent as Fit Person and the consequential communication of the 4th respondent dated 04.03.2024 seeking possession of the temple and quash the same as illegal.

For Petitioner :Mr.V.Srikanth

For Respondents :Mr.N.R.R. Arun Natarajan,
Spl.Government Pleader (HR and CE)

ORDER

The writ petition is filed challenging the order dated 21.01.2025 by which, a Fit Person was appointed to ArulmiguPunniyakoteswarar Temple at Kancheepuram and consequential order dated 04.03.2025 directing the petitioner to handover the charge of the temple to the Fit Person.

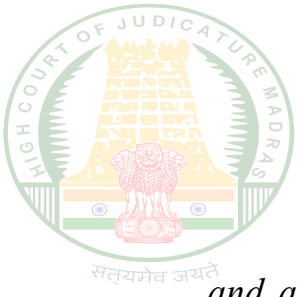


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2. The grievance of the petitioner is that the said temple was managed by the petitioner's father as a hereditary trustee. The petitioner's father passed away on 14.12.2024. The petitioner, his sister and mother are the surviving legal heirs. Among the surviving legal heirs, there is no dispute that the petitioner can succeed as the hereditary trustee. Before the petitioner could come out of the bereavement and make a formal application to recognise himself as the hereditary trustee under Section 54(1) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, the order was passed appointing a Fit Person and immediately, the petitioner's mother submitted an objection to the same. However, by the second impugned order dated 21.01.2025, the possession is now being sought for and therefore, the petitioner is before this Court.

3. Mr.V.Srikanth, learned counsel appearing on behalf of the petitioner would also rely upon the judgment of this Court in *PremAnand v. The Commissioner, Hindu Religious and Charitable Endowments, Madras*



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and another reported in [1990-1-LW 144] to contend that the respondent authorities only recognise the hereditary trustee and the recognition order could not amount to appointment as hereditary trustee. Once a hereditary trustee passes away, the legal heirs succeed to the said office and that is automatic. Therefore, when the petitioner can be validly appointed as the hereditary trustee and it was only a small time gap within which the petitioner did not make an application, the appointment of a fit person was uncalled for.

4. Per contra, the learned Special Government Pleader drawing the attention of this Court to Section 54 of the Act would submit that the said provision read with Explanation, it can be seen that if for any reasons, the succession could not be decided or the new hereditary trustee could not be appointed, certainly, the respondents authorities are entitled to appoint the fit person. The fit person is so appointed on 21.01.2025 itself and when he is seeking for the charge, the petitioner had sent an objection claiming that the temple is a private temple. Therefore, when today is the last date to hand



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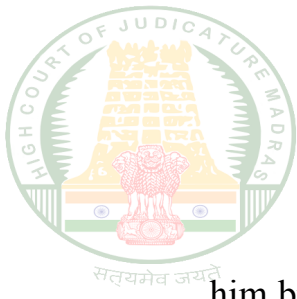
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over the charge, let the petitioner hand over the charge and as and when the application is made to recognise the petitioner as the hereditary trustee, the same will be expeditiously done and when the petitioner is appointed as a hereditary trustee and the fit person will be relieved from the management.

5. The learned Special Government Pleader would also submit that in any event as against the order appointing fit person, the petitioner also got appeal remedy under Section 54(4) of the Act.

6. I considered the submissions made by the counsels on either side and perused the material records in this case.

7. In this case, the important factor is with reference to the date of death of hereditary trustee and time log. The hereditary trustee who was functioning with reference to the said temple died on 14.12.2024 only. The fit person was appointed on 21.01.2025 in the very next month itself. The petitioner claims that he is entitled to succeed the office. Even before giving



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him breathing time to file an application to recognise himself, the fit person is appointed. As on date, it is not brought to the notice of this Court that there is any circumstances exist in which the succession of the office of the hereditary trustee could not be decided.

8. Section 54 of the Hindu Religious and Charitable Endowments Act is extracted hereunder for ready reference:

“54. Filing up of vacancies in the office of hereditary trustee.

- (1) When a permanent vacancy occurs in the office of the hereditary trustee of a religious institution, the next in the line of succession shall be entitled to succeed to the office.
- (2) When a temporary vacancy occurs in such an office by reason of the suspension of the hereditary trustee under sub-section (2) of section 53, the next in the line of succession shall be entitled to succeed and perform the functions of the trustee until his disability ceases.
- (3) When a permanent or temporary vacancy occurs in such an office and there is a dispute respecting the right of succession to the office, or when such vacancy



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cannot be filled up immediately, or when a hereditary trustee is a minor and has no guardian fit and willing to act as such or there is a dispute respecting the person who is entitled to act as guardian, or when a hereditary trustee is by reason of unsoundness of mind or other mental or physical defect or infirmity unfit for performing the functions of the trustee, [the Joint Commissioner or the Deputy Commissioner, as the case may be,] [Substituted for the expression 'the Deputy Commissioner' by section 9 of the Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1995 (Tamil Nadu Act 38 of 1995).] may appoint a fit person to perform the functions of the trustee of the institution until the disability of the hereditary trustee ceases or another hereditary trustee succeeds to the office or for such shorter term as [the Joint Commissioner or the Deputy Commissioner, as the case may be,] [Substituted for 'the Deputy Commissioner' by Tamil Nadu Act 38 of 1995.] may direct.

(4) Any person aggrieved by an order of [the Joint Commissioner or the Deputy Commissioner, as the case may be] [Substituted for the expression 'the Deputy Commissioner' by section 9 of the Tamil Nadu Hindu Religious and Charitable Endowments



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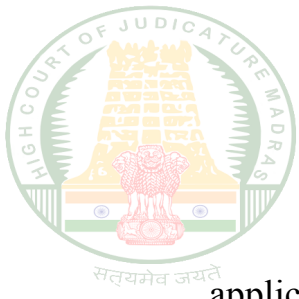


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(Amendment) Act, 1995 (Tamil Nadu Act 38 of 1995).], under sub-section (3) may, within one month from the date of the receipt of the order by him, appeal against the order to the Commissioner.

(5) Nothing in this section shall be deemed to affect anything contained in the [Tamil Nadu] [Substituted for the word 'Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Law s (Second Amendment) Order, 1969.] Court of Wards Act, 1902 ([Tamil Nadu] [Substituted for the word 'Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Law s (Second Amendment) Order, 1969.] Act I of 1902).”

9. Therefore, if only the vacancy cannot be filled up immediately, or there is any difficulty with the hereditary trustee being a minor or illness or if there is any other contest etc., the fit person could have been appointed. It is the claim of the petitioner that there exists no dispute in the matter. Both the petitioner’s mother and the petitioner’s sister are not claiming the office. It is undertaken by the learned counsel for the petitioner that the due



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application will be made along with the consent affidavits of the said two persons. Upon the query by this Court, the learned counsel unequivocally submit that the claim made in the representation that the temple is a private temple is incorrect and it is inadvertently made. The temple is a public temple.

10. In view of the undertaking made, even though there is a scope for filing an appeal before the Commissioner, since the matter touches upon the jurisdiction of the authorities, the writ petition is entertained by this Court and since the limited nature of the relief, that is granted, the order is passed. The Writ petition is disposed of on the following terms:-

(1) Within one week from today without waiting for the certified copy of the order, the petitioner along with the consent affidavits of his sister and mother shall make an application in due form under Section 54 of the Act to the second respondent/Joint Commissioner to recognise himself as the hereditary trustee.

(2) The same shall be considered in accordance with the law and orders be passed within four weeks thereafter.



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The status quo as on today shall be maintained till such disposal of the application. If there is any difficulty arises in appointing the hereditary trustee, then the impugned order appointing the fit person will come into force.

No costs. Consequently, connected Miscellaneous Petitions are closed.

06.03.2025

Neutral citation: no
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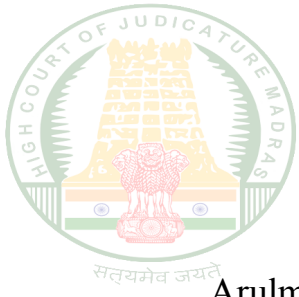
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