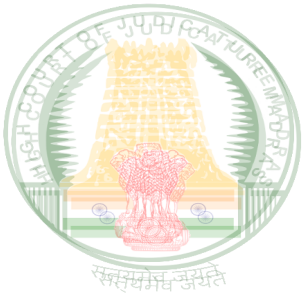




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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-07-2025

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

**WP No. 23693 of 2025
and WMP Nos. 26666 & 26667 of 2025**

P.Sampath

Petitioner(s)

Vs

1. The Commissioner
Hindu Religious and Charitable
Endowment (Admn) Department,
Uthamar Gandhi Road,
Nungambakkam, Chennai-600 034.

2.The Joint Commissioner
Hindu Religious and Charitable
Endowment (Admn) Department,
Erode.

3.The Assistant Commissioner
Department Of Hindu Religious Adn
Charitable Endowments,
Namakkal District.

4.Executive Officer / Fit Person,



Arulmigu Chinna Oongaliamman Temple,
Tiruchankodu Taluk Namakkal District.

5.P.Ponnusamy

Respondent(s)

PRAYER Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the third respondent in order Na.Ka. No.1804/ 2025/ A6 dated 23.05.2025 and quash the same.

For Petitioner(s): Ms.C.A.Sharmila

For Respondent(s): Mr.K.Karthikeyan
Government Advocate
for R1 to R4

ORDER

This writ petition has been filed challenging the order passed by the 3rd respondent dated 23.05.2025, appointing a fit person to manage the affairs of the temple.

2.Heard Ms.C.A.Sharmila, learned counsel appearing on behalf of the petitioner and Mr.K.Karthikeyan, learned Government Advocate appearing on behalf of the respondents 1 to 4.



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3.The case of the petitioner is that Arulmighu Mariyamman Temple belongs to the family of the petitioner and they were administering the temple for generations together as Hereditary Trustees. While so, the father of the petitioner filed O.A.No.16 of 2003 before the Joint Commissioner, HR & CE to declare him as Hereditary Trustee under Section 63(d) of the HR & CE Act. During the pendency of this application, Ponnusamypillai passed away and his brother Natesan Pillai impleaded himself. The Joint Commissioner by order dated 17.04.2008, allowed the application and declared the Hereditary Trustee. Aggrieved by the same, third parties filed appeal in A.P.No.32 of 2008 before the Commissioner of HR & CE. The Commissioner of HR & CE by order dated 25.11.2008, set aside the order of the Joint Commissioner and remanded the matter back to the file of the Joint Commissioner.

4.Aggrieved by the order passed by the Commissioner, the Natesan Pillai filed a suit in O.S.No.49 of 2009 before the Sub Court, Paramathi. During



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the pendency of the suit, the said Natesan Pillai died and the suit was dismissed for default. The petitioner filed an impleading application before the Joint Commissioner in O.A.No.16 of 2003 to substitute him as an applicant. The said application was transferred to the file of the Joint Commissioner, Erode and was renumbered as O.A.No.7 of 2021 and this application was dismissed for non-prosecution on 23.06.2023.

5.The petitioner filed the restoration petition and the same was not taken up for hearing. While so, the 3rd respondent through proceedings dated 23.05.2025, appointed the 4th respondent as the Executive Officer/Fit Person of the temple.

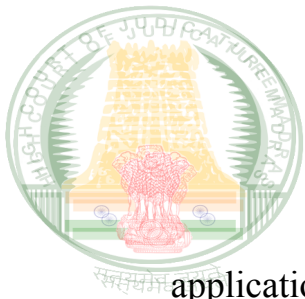
6.The grievance of the petitioner is that when the restoration petition was pending before the Joint Commissioner, this order was passed by the 3rd respondent and hence, the same has been put to challenge in the present writ petition.



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7. In the considered view of this Court, the Joint Commissioner of HR & CE is not vested with any power to restore an application which has been dismissed for default. If ultimately, the petitioner is entitled to function as Hereditary Trustee, the petitioner can make an independent application before the Joint Commissioner of HR & CE under Section 63(b) of the Act. This is in view of the fact that the earlier application filed by the father of the petitioner came to be allowed and the order was set aside by the Commissioner and after it was remanded back to the file of the Joint Commissioner, it was dismissed for default. Therefore, the Commissioner never had an opportunity to deal with the claim made by the family members of the petitioner to appoint them as Hereditary Trustee. When this was going on, the fit person has been appointed to manage the affairs of the temple.

8. In the considered view of this Court, the petitioner has to blame himself for ending up in a situation like this. The parties are expected to prosecute the



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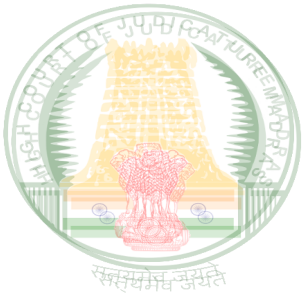
application before the concerned authority with diligence. However, it is seen

that OA.No.07 of 2021 was dismissed for default due to non-appearance.

Hence, the status of the petitioner is yet to be determined by the concerned authority.

9.On carefully considering the impugned proceedings dated 23.05.2025, it is seen that the 3rd respondent has provided sufficient reasons as to why the management has to be taken over by the fit person. Apart from that, a fit person has already taken charge of the administration of the temple.

10.In the light of the above discussion, it is left open to the petitioner to submit a fresh application to appoint him as hereditary trustee under Section 63(b) of the Act. The Joint Commissioner on receipt of the same, shall deal with the application on its own merits and in accordance with law and take a decision, within a period of twelve weeks from the date of filing of the application by the petitioner.



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11.This writ petition is disposed of with the above directions. No Costs.

Consequently, connected miscellaneous petitions are closed.

01-07-2025

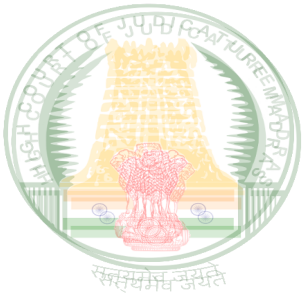
Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No

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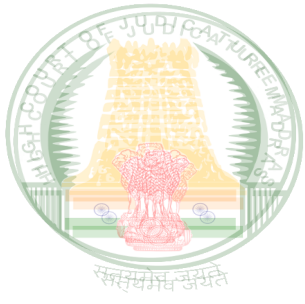
To

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4.Executive Officer / Fit Person,
Arulmigu Chinna Oongaliamman
Temple, Tiruchankodu Taluk
Namakkal District.



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WP No. 23693 of 2025

N.ANAND VENKATESH J.

SSR

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