



WP(MD) Nos.411 & 903 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON
09.01.2024

PRONOUNCED ON
31.01.2025

CORAM:

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD)Nos.411 & 903 of 2025 &
WMP (MD).Nos.570, 572 & 573 of 2025

W.P.(MD)No.411 of 2025

Palanisamy

... Petitioner

VS.

1.The Joint Commissioner,
Hindu Religious & Charitable Endowment Dept.,
Cotton Market Building,
Palladam Road, Thiruppur.

2.The Executive Officer,
Arulmigu Kadambavaneshwarar Thirukovil,
Kulithalai Taluk,
Karur District.

Holding office as Fit Person,
Arulmigu Karuppasamy Thirukovil,
Vebbankudi, Kaniyalampatti Post,
Kadavur Taluk, Karur District – 621 301.
Office at Arulmigu Kadambaneswarar Temple,
Kulithalai, Karur District.



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3.The Inspector of Police,
Thokamalai Police Station,
Karur District.

4.The District Superintendent of Police,
Kulithalai Sub Division,
Karur District.

... Respondents

PRAYER :- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the respondents No.1 & 2 more particularly to the second respondent to consider the petitioner's representation dated 23.12.2024 to hand over the possession and management of the subject temple on or before 13.01.2025 based on the order passed by the second respondent dated Se.Mu.Na.Ka.No. 4479/2024/A3, dated 26.07.2024 and consequently direct the 3rd & 4th respondents to provide adequate police protection to conduct the festival on 14.01.2025 & 15.01.2025 to the Arulmigu Karuppasamy Thirukovil situated in Kaniyalampatti Post, Kadavur Taluk, Karur District and pass any such other order.

W.P.No.903 of 2025

1.Sirumpayee
2.Ganesan
3.Thiruvel

... Petitioners

vs.



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1.The Joint Commissioner,
Hindu Religious & Charitable Endowment Dept.,
Cotton Market Building,
Palladam Road, Thiruppur.

2.The Executive Officer,
A/m.Kadamabvaneshwarar Thirukovil,
Kulithalai Taluk,
Karur District.

3.Palanisamy

... Respondents

PRAYER :- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records relating to the impugned proceedings of the 1st respondent in Se.Mu.Na.Ka.No. 4479/2024/A3, dated 16.07.2024 and quash the same.

For Petitioners :Mr.V.Meenakshi Sundaram for
Mr.I.Velpradeep for petitioner in
W.P.No.411 of 2025 & R3 in W.P.
(MD).No.903 of 2025

Mr.VR.Shanmuganathan in W.P.(MD).No.
903 of 2025

For Respondents :Mr.P.Subbaraj Spl.G.P., for R1 in both W.Ps

Mr.P.Athimoola Pandian for R2 in both W.Ps

M/s.Asha G.A., (Criminal side) for RR3&4
in W.P.(MD).No.411 of 2025



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COMMON ORDER

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These Writ Petitions have been taken together as the Writ Petition in W.P.No.411 of 2025 seeks to implement the order dated 16.11.2024, while the other challenges the very same order.

2.Heard Mr.V.Meenakshi Sundaram learned counsel appearing on behalf of Mr.I.Velpradeep for petitioner in W.P.No.411 of 2025 & R3 in W.P.(MD).No.903 of 2025, Mr.VR.Shanmuganathan learned counsel appearing for Petitioner in W.P.(MD).No.903 of 2025, Mr.P.Subbaraj learned Special Government Pleader appearing for the first respondent and Mr.P.Athimoola Pandian learned counsel for the second respondent in both W.Ps in both W.Ps and M/s.Asha Learned Government Advocate, (Criminal side) appearing for RR3&4 in W.P.(MD).No.411 of 2025.

3.The learned counsel appearing for the Writ Petition in W.P. (MD).No.411 of 2025 would submit that the petitioner had been recognised as the hereditary Trustee by the orders of the Joint Commissioner, dated 16.07.2024 and that the said order is yet to be implemented by the



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authorities, as the second respondent who is holding the office as the fit person is still in possession and management of the temple and even after the recognition of the petitioner, as a hereditary Trustee, the second respondent had not handed over the possession and management of the temple to the petitioner. He would further submit that the festivals for the month of 'Thai' had to be conducted and the act of the second respondent is prohibiting the petitioner, who had been appointed as hereditary Trustee to conduct the “Thai Pongal Pala Poojai”, which is the main festival for the temple. Hence, he would seek appropriate direction by this Court to the second respondent to consider his representation, dated 23.12.2024 for handing over the possession and management of the temple based upon the order passed by the Joint Commissioner, dated 16.07.2024.

4.The learned counsel appearing for the petitioner in W.P.(MD).No. 903 of 2025 on the other hand would contend that the petitioner in W.P. (MD).No.411 of 2025 who is the third respondent herein, is not entitled to be recognised as a hereditary Trustee of the temple. He would submit that the temple dates back to more than 500 years and was founded by the ancestral of the petitioner. He would further submit that the temple had



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been managed by seven male heirs, who are referred to as 7 kizhavangal (7 Clans) and that the eldest male members representing the 7 Clans had been carrying out the rituals as Poosaries to the temple and were in management of the temple. While that being so, one Mr.Periasamy belonging to the 7 Clans suppressing all relevant materials and by not adding the necessary parties, had fraudulently obtained an order recognizing him as the hereditary Trustee for the temple. The said Periyasamy had died in the year 1977. Even during his life time, the said order was not given effect to and after his death one Mr.Ponnusamy, who is the elder son of the said Periasamy had entered into a Muchalika with the other 6 Clans before the villagers under which it had been decided that the festivals of the temple would be conducted by the male members representing the 7 Clans as Poosaries to the temple. After entering the said Muchalika, the members of the 7 Clans were performing the poojas in the temple and also managing the temple.

5.He would further submit that after the death of the Periasamy, the legal heirs of the said Periasamy had not made a claim to the hereditary Trusteeship of the temple. Thereafter, when disputes had arisen, members belonging to all the 7 Clans had initiated an Original Application in



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O.A.No.9 of 2001, before the Joint Commissioner, Trichy seeking to recognize their rights as Poosaries under Section 63(e) of the HR & CE Act.

After detailed enquiry, by order dated 28.11.2013, the Joint Commissioner based on recording of facts, had held that the persons of all the Clans are entitled to conduct the Poojas.

6.He would also submit that the Joint Commissioner had also recorded a fact that after the death of the Periasamy, his legal heirs have not recorded their succession to the hereditary Trusteeship. In such an event, relying upon Article 107 of the Limitation Act, he would submit that such claim could be made only within a period of 12 years of accruing of such right or atleast when such right is sought to be interdicted. In the present case, he would submit that as early as in the year 1978, i.e., after the death of the Periasamy, a Muchalika had been entered between the members of the 7 Clans with regard to the affairs of the temple and therefore, the impugned order recognizing the right of the third respondent as Hereditary Trustee is hit by the provisions of Article 107 of the Limitation Act.



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7. That apart, he would submit that though the very same office of the Joint Commissioner had already recorded a fact that the third respondent had failed to register himself as the hereditary trustee and having given a finding that with regard to the affairs of the temple, members of all the 7 Clans have right and interest, in contrary the very same office except in change of the holder of the office had recognized the right of the third respondent, as hereditary Trustee. Disputes have been recorded by the office of the Joint Commissioner in its earlier order of the year 2013 and without even looking into such disputes, the present order had been issued.

8. It is also to be noted that the legal heirs of Ponnusamy, who is the elder son of the Periasamy and brother of the third respondent was not given any notice of such appointment. Even on that aspect, the impugned order according to him is liable to be set aside.

9. The learned Special Government Pleader appearing on behalf of the Joint Commissioner would submit that the second and third petitioners along with another had also moved a review application of the order dated 16.07.2024 and the same is also pending consideration. In such view of the



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matter, he would submit that this Court at this juncture need not entertain the Writ Petition.

10.The learned counsel appearing for the Executive Officer would submit that even though the order dated 16.07.2024, had been issued by the Joint Commissioner, the order has not been given effect to as on today and he is in management of the affairs of the temple and would also submit that the Poojas of the temple have been conducted by the members of the 7 Clans, who have been recognized by the orders of the Joint Commissioner in O.A.No.9 of 2001.

11.I have heard the rival submissions made by the learned counsel appearing on either side and perused the materials placed on record.

12.The case of the petitioner in W.P.(MD).No.411 of 2025 is that by proceedings in O.A.No.185 of 1969, the father of the petitioner therein was appointed as hereditary Trustee and that the said order remains unchallenged. On the contrary, it is the claim of the petitioner in W.P.(MD).No.903 of 2025 that even though such an order was made, the



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same had not been given effect to in view of the Muchalika entered between the members of the 7 Clans including the brother of the petitioner in W.P. (MD).No.411 of 2025, wherein it was agreed between the members of the 7 Clans that the temple affairs would be managed by all the members of 7 Clans including the daily rituals to the temple and other important festivals as agreed in the Muchalika.

13.It is also to be noted that the disputes arose in the year 2001 as regards to the performance of the rituals in the temple. Members of all the Clans and the petitioners had moved the Joint Commissioner for recognizing their rights as Poosaries and it is to be noted that the petitioner in W.P.(MD).No.411 of 2025 was also made as a party respondent along with his brother Ponnusamy. After a detailed enquiry, the Joint Commissioner had recognized the rights of the members of the 7 Clans in performing the Poojas to the temple. After adverting to the various evidences and arguments let by both the parties, the Joint Commissioner had collated the facts. He had specifically found a fact that after the death of Periasamy at whose instances an order of recognizing him as hereditary Trustee had died and the legal heirs of the said Periasamy, had not taken any



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steps to recognize themselves as hereditary Trustees. It is also to be noted that the said Periasamy died in the year 1977.

14.The Joint Commissioner has also recorded the existence of Muchalika between the members of the 7 Clans as early as in the year 1978. He had also given a finding that the petitioner in W.P.(MD).No.411 of 2025 had not produced any documents or evidences that the rituals in the temple were carried out only by him. Infact, the brother of the petitioner in W.P.(MD).No.411 of 2025, who was also added as a first respondent in the said O.A., had filed a memo conceding to the claim of the members of the 7 Clans. The Joint Commissioner has also recorded that the temple was under the management of a fit person appointed in view of the disputes and that the members of 7 Clans would have to perform the pooja on the dates fixed by the Administrator of the temple, namely the fit person.

15.When such disputes between the parties were noted by the office of the Joint Commissioner, it is not known as to how the Joint Commissioner, who had succeeded to the office had on an application filed by the petitioner in W.P.(MD).No.411 of 2025, recognized his rights to hold



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the office of the hereditary Trusteeship in succession.

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16. It is seen from the order impugned that an application seems to have been made on 19.06.2024 and the order had been passed on 16.07.2024.

17.As rightly pointed out by the learned counsel appearing for the petitioner in W.P.(MD).No.903 of 2025 for claiming hereditary Trusteeship, when it is disputed that the limitation Act prescribed a limitation of 12 years. Even assuming that the Ponnusamy, who was the elder son of Periasamy was holding the trusteeship, the said Ponnusamy had also died in the year 2011. After a period of 13 years, the present Petition had been taken out by the petitioner in W.P.(MD).No.411 of 2025.

18.It is to be noted that the said Ponnusamy, had not also claimed the hereditary Trusteeship and infact had conceded to the claims of the 7 Clans by filing a memo before the Joint Commissioner in O.A.No.9 of 2001. When that being so, the office of the Joint Commissioner ought to have been more vigilant in proceeding with the claim made for succession of



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hereditary Trusteeship. It is also noted that the Joint Commissioner had not even sought for a report from the jurisdictional Inspector, H.R&C.E. Department before passing an order. Had such a procedure been followed by him, the facts would have been brought to his notice.

19. For the aforesaid reasoning and findings, this Court is inclined to interfere with the order, dated 16.07.2024 made by the Joint Commissioner recognizing the right of the petitioner in W.P.(MD).No.411 of 2025 to succeed as hereditary Trustee and remit the matter back to them for fresh consideration, after affording an opportunity of hearing to all the respective parties, as per Section 54(3) of the H.R.&C.E., Act, which also envisages that a dispute respecting the right of succession can also be decided by the Joint Commissioner. Such exercise shall be carried out by the Joint Commissioner, within a period of six months from the date of receipt of a copy of this order. Till such time, the fit person shall continue to be in management and affairs of the temple and permit for carrying out the rituals as per the order made in O.A.No.9 of 2001, dated 28.11.2013.



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20. With the aforesaid directions, the Writ Petition in W.P.(MD).No. 903 of 2025, is allowed and the impugned order dated 16.07.2024, is set aside and consequently, W.P.(MD).No.411 of 2025 is dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

31.01.2025

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
Pbn



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To

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K.KUMARESH BABU.,J.

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A Pre-delivery order made in
W.P.(MD)Nos.411 & 903 of 2025 &
WMP (MD).Nos.570, 572 & 573 of 2025

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