



W.P.(MD)No.4452 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.4452 of 2025

and

W.M.P.(MD)No.3196 of 2025

C.Periyasamy

... Petitioner

-VS-

1.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Madurai.

2.A.Alagarsamy

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the impugned order passed by the first respondent in O.A.No.5 of 2020, dated 21.10.2024 and to quash the same.

For Petitioner : Mr.C.M.Mari Chelliah Prabhu

For R1 : Mr.K.S.Selvaganesan
Additional Government Pleader



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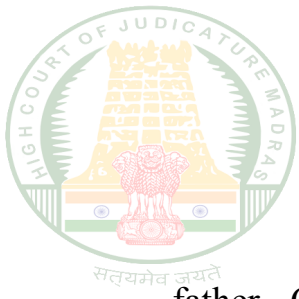
ORDER

This Writ Petition has been filed seeking to quash the impugned order passed by the first respondent in O.A.No.5 of 2020, dated 21.10.2024.

2. With the consent of both sides, this Writ Petition is taken up for final disposal at the admission stage itself.

3. Since no adverse orders are going to be passed against the second respondent, notice to the second respondent is hereby dispensed with.

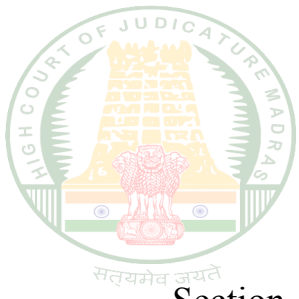
4. The learned counsel for the petitioner submits that the petitioner is a resident of Vanjipatti Village, Madurai District and that a deity named "Pattathu Arasi Amman" has been worshipped by the petitioner's villagers from time immemorial. On the eve of Mattu Pongal and Maha Shivarathiri, the Poojaries have traditionally given honour to the petitioner's family on behalf of the Kallar community, as part of customary practice. Similarly, individuals from other communities are also honoured on behalf of their respective communities. The mode of honouring involves the offering of sacred ash (Vibuthi) and betel and thereafter, the holy ash of Amman is given to other villagers. The petitioner's



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father, Chinnakaalai @ Vishakodai, being the eldest male descendant, was traditionally given this honour during the festival. However, one Subbiah Naidu filed a civil suit in O.S.No.84 of 1990 before the District Munsif Court, Melur, seeking a declaration for grant of first honour and a permanent injunction. The suit was decreed on 16.03.1992. Aggrieved by the said judgment and decree, the petitioner's father and others filed A.S.No.102 of 1992 before the Additional District Court, Madurai. The lower appellate Court set aside the judgment and decree passed in O.S.No.84 of 1990 and directed the parties to approach the Joint Commissioner, H.R. & C.E. Department. The lower appellate Court also observed that, pending adjudication before the Joint Commissioner, the family members of Subbiah Naidu would be given the first honour in the temple.

5. The learned counsel for the petitioner further submits that in the year 2012, the second respondent began to create a problem, claiming that his family members are entitled to receive first honour on behalf of the Kallar community, taking advantage of the name similarity his paternal uncle, Chinnakaalai. The petitioner's father had traditionally received the honour during festival occasions until his demise. Thereafter, the second respondent filed an application under

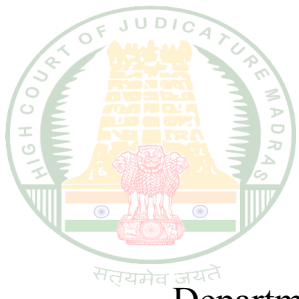


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Section 63(e) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (hereinafter referred to as 'the H.R. & C.E. Act') in O.A.No.5 of 2020, without impleading the petitioner and other interested parties. The petitioner filed an interim application in I.A.No.15 of 2023 to implead himself as a respondent and put forth his defense. However, due to his old age, the petitioner was unable to contact his counsel to represent him before the first respondent, and as a result, the interim application was dismissed for default. Further, the first respondent adjudicated O.A.No.5 of 2020 based on certain isolated portions of the deposition from the civil suit in O.S.No.84 of 1990. Without issuing notice to any of the interested parties, the first respondent, through the impugned order dated 21.10.2024, declared that the family of the second respondent, is entitled to receive the honour on the eve of the festivals. Hence, the present Writ Petition.

6. The learned Additional Government Pleader appearing for the first respondent submits that the petitioner, aggrieved by the impugned order, has a statutory appellate remedy available under Section 69 of the H.R. & C.E. Act. The learned Additional Government Pleader submits that the only remedy available to the petitioner is to approach the Commissioner of H.R. & C.E.



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Department, if aggrieved by the impugned order. Without approaching the said authority, the petitioner has straightaway approached this Court under Article 226 of the Constitution of India.

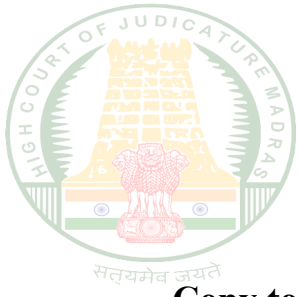
7. This Court after considering the rival submissions, is of the considered view that the petitioner will have to necessarily preferred an appeal as prescribed under Section 69 of the H.R. & C.E. Act, if aggrieved by the impugned order.

8. For the foregoing reasons, the petitioner is directed to prefer an appeal as against the impugned order before the Commissioner as per Section 69 of the H.R. & C.E. Act, within a period of 15 days from the date of receipt of a copy of this order. On receipt of the same, the Commissioner, H.R. & C.E. Department, shall dispose of the appeal within a period of four weeks thereafter.

9. With the aforesaid directions, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

NCC : Yes / No
Index : Yes / No

19.02.2025



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Copy to:-

The Commissioner,
Hindu Religious and Charitable Endowments Department,
119, Uthamar Gandhi Road,
Thousand Lights West,
Nungambakkam, Chennai,
Tamil Nadu - 600034.

To:-

The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Madurai.



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VIVEK KUMAR SINGH, J.

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