

W.P.(MD).No.9353 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.9353 of 2025

and

W.M.P.(MD)No.6987 to 6989 of 2025

- 1.Sethu Anjaneya
- 2.Shanmuga Pandiyaraja
- 3.Pandithurai

... Petitioners

-VS-

1. The Commissioner,
Hindu Religious and Charitable Endowments Department,
Chennai.
2. The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Sivagangai.
3. The Executive Officer / The Assistant Commissioner,
Arulmighu Madapuram Pathirakali Amman Thirukoil,
Sivagangai District.

4. M.Tharmarajan

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of certiorari calling for the records relating to the impugned proceeding of the 2nd respondent in Na.Ka.No.2100/2024/A3 dated 28.10.2024 and quash the same.



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For Petitioners : Mr.V.R.Shanmuganathan
For Respondent : Mr.K.S.Selva Ganesan (R1 to R3)
Special Government Pleader

ORDER

This writ petition has been filed challenging the impugned proceeding of the 2nd respondent in Na.Ka.No.2100/2024/A3 dated 28.10.2024.

2. By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself. Considering the nature of the order going to be passed in this writ petition, notice to the fourth respondent is dispensed with.

3. The case of the petitioners is that, some properties are owned by the petitioners and others, by way of inheritance from the four branches of his family tree, out of which, fourth branch has no male issues. During the year 1930, they partitioned the properties in five schedules as A to E and it was also agreed that the income from E schedule property would be utilized for religious functions of the third respondent temple, which would be administered by rotation every year. While this being so, in the year 1972,



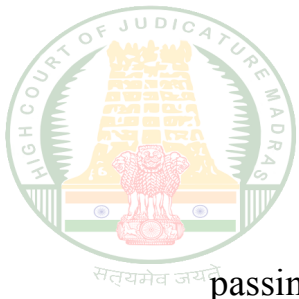
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they decided to put an end to the private family trust and as per the earlier partition, they divided the said properties and the remaining extent of the property which was allotted to E schedule property was to perform charities and it was also agreed that the administration would be with the first three branches, since the fourth branch had no male heirs.

4. The further case of the petitioners is that one of the family members filed a suit claiming that the E schedule property cannot be partitioned and the said suit was dismissed and the same had attained finality by a judgment and decree dated 06.12.1976 in AS No.112 of 1976 on the file of the learned District Judge, Madurai. Now, the fourth respondent, who is the grandson of the fourth branch family had created troubles by sending petitions after petitions, in regard to the said issue, an order has been passed by the second respondent on 28.10.2024, wherein the third respondent is directed to take necessary legal action for transfer of pattas in respect of the aforesaid property in the name of the temple.

5. The learned counsel appearing for the petitioners submits that neither a notice has been issued nor an opportunity of hearing was granted to the petitioners and other family members by the second respondent before



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passing the impugned order. He further submits that the income from the E schedule property alone is to be utilized for religious functions and hence, he seeks for quashment of the impugned order.

6. The learned Additional Government Pleader appearing for the official respondents has also not disputed the submissions made by the learned counsel appearing for the petitioners.

7. Admittedly, no notice or opportunity of hearing was given to the petitioners before passing the impugned order and hence, there is a clear violation of principles of natural justice. In view of the same and also considering the submissions made on either side and also taking note of the facts and circumstances of this case, the impugned order dated 28.10.2024, is hereby set aside and the matter is remitted back to the second respondent for a fresh consideration. The second respondent is directed to consider the case of the petitioners on its own merits and pass fresh orders in accordance with law, as expeditiously as possible, preferably, within three months from the date of receipt of a copy of this order, after affording fair opportunity of hearing to the petitioners, the fourth respondent and other necessary parties, who may be interested in the subject matter. It is also made clear that this Court has not



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expressed any opinion on the merits of the case and that it is open to the second respondent to consider the same on its own merits. The petitioners are also directed to fully cooperate with the second respondent.

8. In the result, the Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

03.04.2025
(2/2)

NCC : Yes/No
Index : Yes / No
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TO:-

1. The Commissioner,
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Chennai.
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3. The Executive Officer / The Assistant Commissioner,
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VIVEK KUMAR SINGH, J.

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Order made in
W.P.(MD)No.9353 of 2025
(2/2)

Dated:
03.04.2025