

(2011) 07 MAD CK 0329

Madras High Court (Madurai Bench)

Case No: Writ Petition (MD) No. 5166 of 2008

C. Periasamy Servai

APPELLANT

Vs

The Joint Commissioner, Hindu
Religious and Charitable
Endowment Department, The
Executive Officer and The Judicial
Magistrate No. 2, Magistrate
Court

RESPONDENT

Date of Decision: July 1, 2011

Acts Referred:

- Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 - Section 101

Hon'ble Judges: D. Hariparanthaman, J

Bench: Single Bench

Advocate: R.G. Shankar Ganesh, for the Appellant; D. Muruganandam, Additional
Government Pleader, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

D. Hariparanthaman, J.

The first Respondent framed a scheme in O.A. No. 36 of 1986 in respect of Arulmighu Sri Kottai Karuppanasamy Temple at Kanniwadi Village in Dindigul District, by an order dated 13.10.1987.

2. Clause 3 of the said scheme is as follows:

3. The above mentioned institution namely A/m. Karuppanasamy Temple at Kannivadi Village Dindigul Taluk, Anna District and its properties shall be managed and administered by a board of trustees not less than three and not more than five persons chosen from among the elder members of the above mentioned families of the Petitioners who shall be appointed by the appropriate authorities subject to the provisions of the Act. They shall elect one among themselves as Chairman of the

Board of Trustees subject to the provisions of the Act.

A Board of trustees not less than 3 and not more than 5 persons chosen from among the elder members of the seven families of the Petitioners in O.A. No. 36 of 1986, shall be appointed as trustees by the appropriate authorities subject to the Provisions of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, to manage and administer the Arulmighu Karuppanasamy Temple.

3. According to the Petitioner, he was one among the trustees under the scheme. But, the first and second Respondent have disputed the same. According to the Respondents, the Petitioner was not appointed as a Trustee under the Scheme.

4. But the fact is that the second Respondent was appointed as a fit person by the first Respondent on 26.05.2004, to manage the affairs of the Temple.

5. The second Respondent filed an application before the third Respondent u/s 101 of the Tamil Nadu Act 22 of 1959, seeking direction to deliver the registers and movable properties that are in possession of the Petitioner.

6. The grievance of the learned Counsel for the Petitioner is that an interim order was passed in the aforesaid application in CrI.M.P. No. 3253 of 2008 on 16.05.2008, directing the Petitioner to hand over the registers and properties that are in his possession to the second Respondent without hearing him.

7. It is now stated by the learned Counsel for the second Respondent as well as the first Respondent that the Board of Trustees is constituted as per the aforesaid paragraph No. 3 of the Scheme and the Board of Trustees is managing the affairs of the Temple in the place of the second Respondent.

8. Taking into account, the change of circumstances, I hereby direct the writ Petitioner to approach the third Respondent to recall the order that was passed on 16.05.2008, if he is still aggrieved. The Petitioner has necessarily to implead the trustees, who are now managing the Temple as the trustees have stepped into the shoes of the second Respondent.

The Writ Petition is disposed of in the above terms. No. costs.