

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 20.03.2024

PRONOUNCED ON : 10.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)Nos.5603 of 2020,
16137, 16138 of 2021,
4883, 8184, 16375, 16931, 18804 of 2022,
31327, 31355, 31356 of 2023,
5675, 5676, 6113, 6114 of 2024

and

WMP(MD)Nos.4908 of 2020,
13010, 13012, 13016, 13027, 13029, 13030, 13389, 13393, 14346, 14353 of 2021,
4028, 4029, 6098, 11829, 11832, 12158, 12334, 12336, 13706, 13708, of 2022,
26876, 26877, 26911 to 26914 of 2023,
3372, 3387, 5364, 5366, 5369, 5370, 5755 to 5757 of 2024

WP(MD)No.5603 of 2020:-

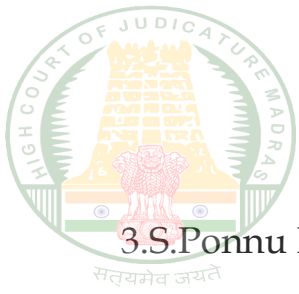
P.M.Chellapandi Poosari

.. Petitioner

v.

1.The Committee of Administrators,
Arulmighu Pandi Muneeswarar Temple,
Melamadai, Madurai North Taluk,
Madurai District.
Rep. by its Member, R.Lakshmi

2.The Joint Commissioner,
Hindu Religious and Charitable Endowments
(Administration) Department,
Madurai – 625 001.



3.S.Ponnu Pandian

.. Respondents

[R.3 impleaded vide order dated 12.01.2024]

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorari to call for the records relating to the impugned notice of the first respondent in Na.Ka.No.44/2020/Aa1 dated 06.03.2020 and quash the same.

For Petitioner : Mr.J.Anandkumar

For Respondents : Ms.J.Anandhavalli for R.1

Mr.R.Baskaran,
Additional Advocate General
Assisted by
Mr.P.Subbaraj,
Special Government Pleader
for R.2

COMMON ORDER

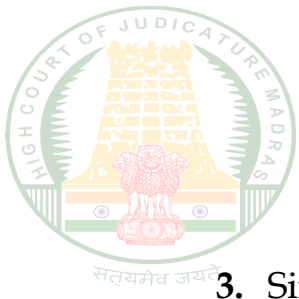
Arulmigu Pandimuneeswarar Temple is situated at Melamadai, Madurai Town and it was declared as a public temple, by the judgment passed by the I Additional Sub Court, Madurai, in A.S.No.1 of 1925. It is a renowned Temple and 1000s of devotees are thronging in the Temple every day and even more in the weekends and special occasions. The exact date of



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the establishment of the Temple is not clear, however, it is said to be in existence since 1800. From the available records, it can be seen that the Temple was administered by one Pandi Kodangi Poosari and thereafter, by his son, Periyasamy Poosari. Periyasamy Poosari was having two sons, namely, Pandiyan @ Botha Poosari and Periyannan @ Mahamuni Poosari. Periyasamy Poosari died when his sons were at tender age. Therefore, the Temple was administered by one Valliammal W/o.Periyasamy Poosari. Thereafter, the Temple was administered by Pandiyan @ Botha Poosari and Periyannan @ Mahamuni Poosari, the sons of Periyasamy Poosari. Pandiyan @ Botha Poosari had five sons and Periyannan @ Mahamuni Poosari had five wives, through whom, he had six sons. The Temple is now administered by the heirs of Pandiyan @ Botha Poosari and Periyannan @ Mahamuni Poosari and the trusteeship was held by the members of this family.

2. The petitioners before this Court are the heirs of Pandiyan @ Botha Poosari and Periyannan @ Mahamuni Poosari and they have filed these writ petitions claiming right of hereditaryship and poojariship of Arulmigu Pandimuneeswarar Temple, Madurai and the consequent shares in the Plate Collections and Hundial Collections.



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3. Since all the writ petitions pertain to the affairs of Arulmigu Pandimuneeswarar Temple, all of them were tagged and heard together.

4. Considering the fact that the issue is among the family members, this Court has also referred the cases to the Mediation and Conciliation Centre, attached to this Bench and also appointed Mediators. On the efforts taken by the Mediators, some parties have arrived at a solution and filed settlement agreements before this Court.

5. WP(MD)No.5603/2020:-

This writ petition is filed against the impugned notice dated 06.03.2020 issued by the first respondent / interim Committee, calling upon the petitioner to show cause as to why an order of recovery should not be passed as against him, for recovering a sum of Rs.54,33,848/- [Hundial Share + Plate Collection].

Petitioner's case:-

1. The petitioner, Chellapandi Poosari, is one of the Hereditary Trustees as well as Poojari of the Temple. He was terminated by the Joint



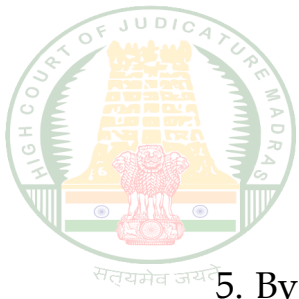
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Commissioner, by order dated 06.07.2013. It was confirmed by the Secretary to Government on 27.02.2015. As against the same, the petitioner filed a suit in O.S.No.305 of 2015 before the Sub Court, Melur, wherein, an order of interim stay was granted. Therefore, the petitioner has collected the Hundial Share + Plate Collections.

2. Though the suit in O.S.No.305 of 2015 [renumbered as O.S.No.86 of 2019] was dismissed by the Sub Court, the appeal filed by the petitioner in A.S.No.25 of 2021 was allowed. Therefore, the petitioner's position as Hereditary Trustee has been restored and as such, there is no question of illegal collection.

3. The impugned notice was issued by a Committee, which was constituted based on the orders of the Hon'ble Supreme Court, as an interim arrangement, to manage the Temple. The Committee is not competent to issue the impugned notice, usurping the powers of taking action against the other Hereditary Trustees.

4. The Committee consists of five members, however, only two members have issued the impugned notice.



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5. By the impugned notice, the first respondent has pre-determined the quantum of collection to be paid by the petitioner.

First respondent's case:-

The petitioner was terminated as Hereditary Trustee on 06.07.2013, which was challenged before the civil Court, where, he got an order of interim stay on 06.04.2015. This order of stay was not extended after 05.07.2016, however, the petitioner continued to receive the Hundial Share + Plate Collections, which he is not entitled to. A resolution was passed by the Board of Trustees on 08.02.2020, enabling the first respondent to issue the impugned notice and accordingly, it was issued.

6. WP(MD)Nos.16137, 16138 of 2021:-

WP(MD)No.16137 of 2021 is filed by Valli and WP(MD)No.16138 of 2021 is filed by Valli's children.

Facts:-

1. One Sangam Poosari, Hereditary Trustee, died on 01.10.1996. Sangam

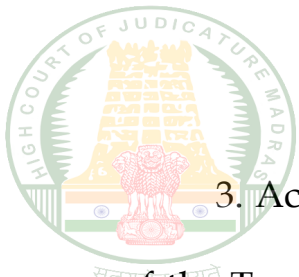
Poosari is the heir of Pandiyan @ Botha Poosari. Sangam Poosari's wife



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predeceased him. Their daughter is Valli. Sangam Poosari, during his lifetime, executed a settlement deed dated 13.05.1992, relinquishing his hereditary rights in favour of Sivaji Poosari, his brother. Sivaji Poosari was performing the poojas on behalf of Sangam Poosari. After some time, Sangam Poosari, vide a registered deed of adoption dated 25.01.1996, adopted Sivaji Poosari's son, Karthik, as his son.

2. Sangam Poosari died on 01.10.1996. On 06.11.1996, Sivaji Poosari made an application, based on which, the Board of Trustees passed a resolution on 11.11.1996 to appoint minor Karthik, the adopted son of Sangam Poosari, as the Hereditary Trustee, with Sivaji Poosari as the minor-guardian. Thereafter, on 14.11.1996, an application was made by the Managing Trustee to the Joint Commissioner, HR CE, in this regard. On the directions of the Joint Commissioner, an enquiry was conducted by the Inspector, HR CE and a report was submitted on 17.01.1997 and the Government Advocate has given an opinion dated 24.04.1997, 12.08.1997. Thereafter, by order dated 04.09.1997, the Joint Commissioner, HR CE, has recognized minor Karthik as the Hereditary Trustee, after Sangam Poosari and Sivaji Poosari was permitted to act as a guardian till he attains majority.



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3. According to the petitioners, Sivaji Poosari was managing the affairs of the Temple on behalf of them and on behalf of Karthik. During the pooja turn of Sangan Poosari, the petitioners were given with their share. However, during the year 2012, Karthik stopped paying such shares. Therefore, the petitioners filed an application u/s.54(1) of the HR CE Act before the Joint Commissioner, HR CE, on 22.08.2012, to record them as the Hereditary Trustees and also to share the income of the Temple during their respective turn in poojariship. The Joint Commissioner, by order dated 06.01.2014, recorded the petitioners as the Hereditary Trustees and that they are entitled for all the monetary benefits.

4. Challenging this order dated 06.01.2014, Karthik filed WP(MD)No. 2338 of 2014. It was dismissed on 04.07.2014, with liberty to Karthik to exhaust the alternate remedy. WA(MD)No.920 of 2014 filed by Karthik was dismissed on 19.09.2014. While so, Karthik filed an appeal before the Commissioner, HR CE in AP.No.46 of 2014. By order dated 04.03.2015, the Commissioner allowed the appeal, by setting aside the order dated 06.01.2014, that the Joint Commissioner has not clarified the position of Karthik and the fate of the order dated 04.09.1997; that the Joint Commissioner ought to have directed the parties to go before the Civil Court.



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Having observed so, the Commissioner has remanded the matter back to the file of the Joint Commissioner to find out 1) whether the claim is barred by limitation; and 2) whether the JC has jurisdiction to decide rival claims.

5. Aggrieved over the same, the petitioners filed WP(MD)Nos.7189, 9423 of 2015. This Court, by order dated 30.09.2015, dismissed the writ petitions with liberty to the petitioners to exhaust the alternate remedy. WA(MD)Nos.1392, 1393 of 2015 filed by the petitioners as against this order were dismissed on 21.09.2017. Thereafter, the petitioners have filed revision petitions before the first respondent in RP.Nos.59, 60 of 2017. The first respondent by order dated 19.04.2021, confirmed the order passed by the Commissioner rejecting the petitioners' claim, however, quashed the Commissioner's order in remanding the matter to the file of Joint Commissioner.

6. These writ petitions are filed as against the order passed by the first respondent / Secretary to Government u/s.114 of the HR CE Act, in G.O.Ms.No.78, Tourism, Culture and Religious Endowments Department, dated 19.04.2021, on the review petitions filed by the petitioners in RP.Nos.59 & 60 of 2017.



Petitioners' submissions:-
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I. Proceedings dated 04.09.1997 is void abnatio:-

1. The proceedings dated 04.09.1997 of the then Joint Commissioner recognizing Karthik as the Hereditary Trustee, in the line of Sangam Poosari, was passed without the knowledge of Valli and without issuing any notice to her. Therefore, it is not binding on her.

2. On 06.11.1996, Sivaji Poosari, immediately after the death of Sangam Poosari, has made an application, based on which, the Board of Trustees passed a resolution on 11.11.1996 to appoint minor Karthik, the adopted son of Sangam Poosari, as the Hereditary Trustee, with Sivaji Poosari as the minor-guardian. In this resolution, Sivaji Poosari was one of the signatories. However, this resolution was not annexed or marked before the Joint Commissioner during the enquiry proceedings, based on which, the order dated 04.09.1997 was passed.

3. The Inspector, HR CE, submitted a report to the Joint Commissioner on 17.01.1997, referring to the letter of Sivaji Poosari dated 14.11.1996 addressed to the Joint Commissioner; the settlement deed dated 13.05.1992



and the adoption deed dated 25.01.1996. The Inspector has not mentioned that he has ever enquired Valli.

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4. Sivaji Poosari and Karthik have referred to a communication dated 31.03.1997, in and by which, the Joint Commissioner has called upon Sivaji Poosari to produce the birth certificate of Karthik, for the purpose of recording him as the Hereditary Trustee in the branch of Sangam Poosari. This communication was not addressed to the Managing Trustee, who addressed a letter to Joint Commissioner about the death of Sangam Poosari and to record Karthik as his successor. Even otherwise, when Sangam Poosari has adopted Karthik, then the person to be called-for for production of birth certificate or any other certificate of Karthik is Valli and not Sivaji Poosari. It is not known as to how and why this alleged communication was made by Joint Commissioner to Sivaji Poosari.

5. The Joint Commissioner has made a communication to the Managing Trustee on 01.03.1997 calling upon him to obtain and forward the no objection from Valli. In turn, the Managing Trustee forwarded a xerox copy of the alleged letter of consent of Valli dated 17.03.1997.

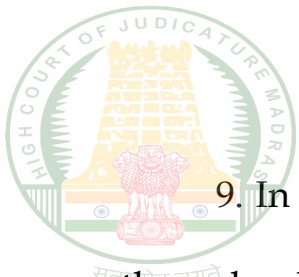


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6. Valli denies this alleged letter of consent dated 17.03.1997 and she has never made such letter. In fact, the stamp paper of this letter stands in the name of Sivaji Poosari.

7. The private respondents relied upon a communication dated 05.04.1997, wherein, Valli was asked to appear on 11.04.1997 for enquiry with regard to recording Karthik as the Hereditary Trustee cum Poosari under the branch of Sangan Poosari. However, in this communication dated 05.04.1997, the from and to address are not clear. Valli did not receive any such communication and she did not appear or gave any statement before the Enquiring Officer on 11.04.1997.

8. This alleged letter of consent dated 17.03.1997; the notice of appearance of Valli dated 05.04.1997; the statement of Valli said to have been made before the Enquiring Officer on 11.04.1997; the resolution passed by the Board of Trustees on 11.11.1996 do not find place in the order dated 04.09.1997. These documents are created ones, including the consent letter and it can be inferred from the fact that the Managing Trustee has sent only a xerox copy of the alleged letter of consent.



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9. In WP(MD)No.2338 of 2014, writ petition filed by Karthik as against the order dated 06.01.2014 passed by the Joint Commissioner recognizing the petitioners as the Hereditary Trustees, this Court has observed that without conducting any enquiry and issuing notice to the family members of Sangam Poosari, the order dated 04.09.1997 was passed. This Court further observed that no documents were produced to show that Valli had knowledge about the order dated 04.09.1997 and that in the said order, there is no mention about the alleged consent letter given by Valli. Having observed so, this Court directed Karthik to challenge the order dated 06.01.2014 by way of appeal before the Commissioner.

10. Valli was not a party to this proceedings nor she was put on notice. Therefore, it is void abinitio.

II. Sivaji Poosari's right:-

1. It is a settled position of law that for succession to the Office of Hereditary Trusteeship u/s.54(1) of the Act, no application is required for recognizing the successors in interest as Trustees. An information alone has to be furnished to the Department about the Hereditary Trusteeship. In this circumstances, the order dated 04.09.1997, based on the letter given by the



Managing Trustee, cannot be treated as an order passed u/s.54(1) of the Act.

It is non-est in the eye of law, inasmuch as it has not been passed after enquiry as contemplated u/s.54(3) of the Act.

2. Section 54(1) of the Act speaks about permanent vacancy in the office of Hereditary Trustee, where the succession to office is automatic. Section 54(2) speaks about temporary vacancy. Section 54(3) speaks about permanent or temporary vacancy and when there is a dispute with regard to the right of succession to office or when such an vacancy cannot be filled up immediately or when a hereditary trustee is a minor and has guardian fit and willing to act as such or there is a dispute respecting the person who is entitled to act as a guardian or when a hereditary trustee is by reason of unsoundness of mind or other mental physical defect or infirmity unfit for performing the functions of trustee, the Joint Commissioner has power to appoint Fit person and while exercising such power, due regard has to be given to the claims of the members of the Family.

3. Here, admittedly, a permanent vacancy arose for the position of Hereditary Trustee, on account of the death of Sangam Poosari. Therefore, u/s.54(1), Valli and Karthik, the legal heirs of Sangam Poosari, would



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automatically become Hereditary Trustees. Though Karthik was a minor at that time, his sister, Valli was very much alive. Therefore, the condition that such vacancy cannot be filled up immediately does not arise at all. Either Valli or Karthik or both of them, as the case maybe, have to be recognized.

4. The Section contemplates for appointment of guardian only when there is a disability for a Hereditary Trustee to hold the office. The Authorities went on the premise that Karthik alone is the successor of Sangam Poosari. It is not the case herein. On the death of Sangam Poosari, Valli and Karthik are the successors.

5. If at all Karthik is to be recognized as the Hereditary Trustee, then Valli alone can be recognized as guardian for Karthik and not Sivaji Poosari. Once Karthik was given in adoption by Sivaji Poosari, the relationship of son and father got severed. Therefore, Sivaji Poosari cannot be recognized as a Guardian for Karthik.

6. In fact, there is no need for Sivaji Poosari to act as Guardian for Karthik, inasmuch as there is no dispute between Valli and Karthik regarding right of succession to office. Even assuming that such a dispute is there, still



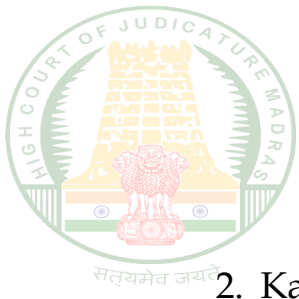
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only the family members can be appointed as Fit Person till the dispute is resolved. The remaining family member of Karthik is Valli and not Sivaji Poosai. Therefore, the order dated 04.09.1997 is not an order u/s.54 of the Act and the question of challenging the same does not arise.

7. Sivaji Poosari was doing the turn of Sangam Poosari by virtue of the settlement deed and after Sangam Poosari's death, it was on the authorization given by Valli. However, conveniently they are claiming that after the execution of deed of adoption, the settlement deed came to an end.

III. Limitation:-

1. Sivaji Poosari was managing the affairs of the Temple on behalf of Sangam Poosari, during his last age. After his demise also, Sivaji Poosari was performing the pooja during Sangam Poosari's turn, on behalf of Valli and Karthik. During the pooja turn of Sangam Poosari, the petitioners were given with their share. However, during the year 2012, there was a change in attitude of Sivaji Poosari and Karthik and they stopped paying any amount to the petitioners from the income during the turn of Sangam Poosari. Therefore, the petitioners filed an application u/s.54(1) of the HR CE Act before the JC, HR CE, on 22.08.2012.



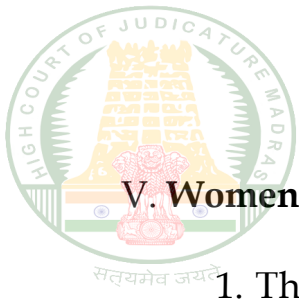
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2. Karthik attained majority in the year 2006 and only thereafter, he started functioning as Hereditary Trustee. Therefore, the period of limitation commence only from the year 2006. The period of limitation is 12 years. The petition was filed in the year 2012, well within the limitation.

3. Even otherwise, the Hon'ble Supreme Court in *Ganesan v. Commissioner, HR CE* has held that the Limitation Act is not applicable before the authorities under the HR CE Act. *In Re M.Radhakrishnan v. Commissioner, HR CE* [WP.No.17535, 18381 of 2020], this Court has held that application of Article 107 of the Limitation Act is only applicable to civil suits and not in respect of proceedings before the authorities.

IV. Proceedings dated 06.01.2014 is proper:-

The JC, while passing the order dated 06.01.2014, has not recalled or reviewed the earlier order dated 04.09.1997. Therefore, Karthik's right is not affected. In fact, the petitioners are not questioning Karthik's right, but only when he disputed Valli's right in the year 2012, the petition has been filed. Therefore, the nature of 'rival' does not arise in the case.

**V. Women Trustees:-**

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1. The Temple itself was in the administration of one Valliammal, who moved the Authorities seeking exemption and it was held that her family alone is entitled to hold the trusteeship. Apart from that, even in the interim Committee appointed by the Hon'ble Supreme Court, one of the Trustees is a woman. Further, in the case of one Chellapandi Poosari, who is one of the Hereditary Trustees cum Poosari, when he was terminated from Office, it was his wife, who approached this Court to do his pooja turn and the same was also granted. The same situation is for one Jegadeesh Pandi. There are several instances in the Temple to show that there is no custom and usage prohibiting women from functioning as Hereditary Trustee cum Poosari.

2. The Hon'ble Supreme Court in *Raj Kuer v. Ram Rattan Pandey* [AIR 1955 SC 493] has held that women are entitled to discharge religious duties attached to the office and that even by substitutes, women can do the pooja service.

VI. Relief sought for / Rotation basis:-

1. In the year 1996, either Valli or Karthik ought to have given consent for appointing the other person as Hereditary Trustee. Admittedly, Karthik



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was a minor at that time and Valli alone can be recognized as Hereditary Trustee. Knowing fully well about this position, Sivaji Poosari moved the Board of Trustees for his recognition. When Valli says that Karthik can continue as Hereditary Trustee, along with her, the Authorities ought to have ordered Trusteeship under the branch of Sangan Poosari on rotation basis between Valli and Karthik. Instead of doing that, the Joint Commissioner has recognized Valli alone in his order dated 06.01.2014.

2. Under the branch of Pandiyan @ Botha Poosari, though Sivaji Poosari was recognized as the Hereditary Trustee, his brother Manikandan, who is also entitled for Trusteeship, is permitted to have the pooja turn separately and to receive the monetary benefits. The same procedure may be adopted for Valli also.

3. It is not proper to say that there is no permanent vacancy in the branch of Sangan Poosari. Valli is the person fully entitled to succeed to the office of Hereditary Trustee and by taking note of the fraud played by Sivaji Poosari in obtaining an order behind Valli, she should be given all power and rights to function as Hereditary Trustee cum Poosari.



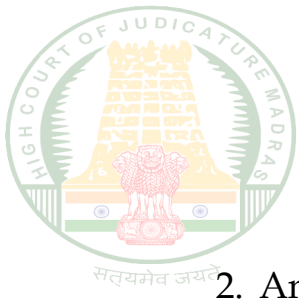
4. When the right of Karthik is not recalled or reviewed, Karthik is estopped from saying that he is affected by virtue of the order passed in favour of the petitioners.

5. As per the directions of this Court, the plate collection amount and the hundial amount are lying in deposit with the Bank. Valli and Karthik may be directed to share equally.

6. Valli is entitled to the share in the hundial collection and the plate collection, when she did the pooja turn alone, ie., when Karthik was under suspension. Therefore, the petitioners may be permitted to withdraw the amount lying to their credit both on plate collection and share in hundial collection and the amount for the pooja turn done independently also.

VII. Developments during the course of litigation:-

1. Karthik caused grievous injury to Sumathi [Valli's daughter], inside the Temple, during the pooja turn of Sangan Poosari, when they were doing the pooja pursuant to the interim order of this Court. In this regard, a complaint was lodged in CSR.No.940 of 2015.



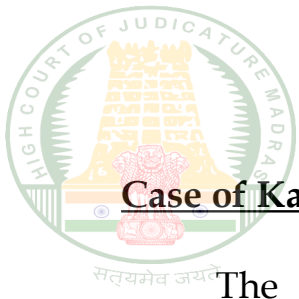
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2. An FIR was registered in Crime No.1373 of 2017 dated 28.07.2017, wherein, Karthik was arrayed as A2, for commission of theft. Thereafter, he was suspended on 31.07.2017 for a period of more than one year and during that period, Valli alone was doing the pooja turn.

3. During these litigations, the petitioners are protected by interim orders that they are entitled to do pooja in the Temple.

VIII. Right of Valli's heirs:-

If the contention of the private respondents is accepted that Valli had relinquished her right and she cannot claim anything, then Valli's children / the petitioners in WP(MD)16138/2021 are entitled for the rights of Valli. There cannot be any deed of relinquishment and even if such a relinquishment is there, it has no legal consequence and cannot be pressed for succeeding to the office [*Chettimai C.Nangappa Chettiar v. S.N.Kuppuswami Chettiar*, reported in 1985 (2) MLJ 154].

**Case of Karthik (private respondent):-**

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The petitioners have filed these petitions with the sole intent of grabbing the income generated from the Temple and not with any bona fide intention to protect the interest of the Temple.

I. JC's order dated 04.09.1997 is valid:-

1. A permanent vacancy arose in the place of hereditary trusteeship following the death of Sangan Poosari on 01.10.1996. Sivaji Poosari made an application for vesting of hereditary trusteeship and poojariship on Karthik, Sangan Poosari's adopted son, in the place of Sangan Poosari. After due deliberation, a letter dated 14.11.1996 was forwarded by the Managing Trustee to Joint Commissioner, following which, the Joint Commissioner directed the Inspector to file a report. The Inspector, HR CE, filed a report on 17.01.1997, placing reliance upon the settlement deed and the adoption deed, that Karthik is entitled to the hereditary trusteeship in the place of Sangan Poosari. Following this report, the Joint Commissioner sent a letter to the Managing Trustee to forward the consent letter, if any, from Valli for Karthik to act as the Hereditary Trustee of the Temple. Valli issued such consent letter dated 17.03.1997, that she has been married and has been away from the Temple for over 20 years; that her father has adopted her cousin's son,



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Karthik; that even during her father's lifetime, her father's cousin Sivaji Poosari was performing her father's pooja turn at the Temple; that she has no objection to Karthik functioning as the Hereditary Trustee of the Temple or Sivaji Poosari performing her father's pooja turn at the Temple or receiving the benefits thereunder. This letter was executed by Valli in the presence of third party witnesses and was thereafter forwarded by the Managing Trustee to the Joint Commissioner on 19.03.1997. Thereafter, the Joint Commissioner called Valli by notice dated 05.04.1997 for an enquiry on 11.04.1997, wherein, Valli affirmed her consent to Karthik to be appointed as the Hereditary Trustee in the place of Sangam Poosari. Thereafter, the Joint Commissioner, acting in due diligence, obtained a legal opinion. The legal opinion dated 24.04.1997 also reflects the consent issued by Valli. Only thereafter, the Joint Commissioner has issued the order dated 04.09.1997 appointing Karthik as a Hereditary Trustee in the place of Sangam Poosari.

2. Therefore, there is nothing wrong in the order dated 04.09.1997. In fact, the petitioners have not challenged the order dated 04.09.1997 passed by the Joint Commissioner appointing Karthik as the Hereditary Trustee, till date. As per the decision of this Court in *A.Pandiammal v. P.Sivaji Poosari* [2012 SCC OnLine Mad 2424], which was confirmed by a Three Judges Bench



of the Hon'ble Supreme Court,

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- i) belated claim especially made without challenging the appointment cannot be maintained;
 - ii) Section 54 of the Act will apply only when permanent vacancy occurs;
 - iii) neither Section 109 nor Article 107 of the Limitation Act will be applicable; and
 - iv) this Court u/A 226 of the Constitution of India cannot decide on the custom, without evidence.

II. Estoppel / Limitation:-

1. Having executed a consent letter dated 17.03.1997 in favour of Karthik for appointment as a Hereditary Trustee and having appeared for enquiry before the Joint Commissioner on 11.04.1997 and made a statement in this regard, Valli is estopped from making any claim now.

2. Similarly, Valli's children are also estopped from making any claim to Hereditary Trusteeship, as their mother Valli has consented to the appointment of Karthik. Even if they were to be entitled to the Trusteeship, neither of them had thereafter disputed the appointment within the required period of limitation.



III. Custom – Male Hereditary Trustee:-

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1. As per the customs of the Temple, the hereditary rights have been flowing in patrilineal manner, ie., through male lineage / through father's lineage.

2. When the son of the founder Pandi Kodangi Poosari, namely, Periyasamy Poosari, passed away, leaving his sons as his successors, the wife of Periyasamy Poosari, namely, Valliammal, was not admitted as a Trustee in the Temple, nor was his daughter, Nallathangal, admitted as a Trustee. Valiammal functioned only as a guardian to the minor trustees, viz., Pandiyan @ Botha Poosari and Periyannan @ Mahamuni Poosari.

3. Even when the scheme suit was filed in O.S.No.383/1973, only the male lineal descendants were parties and neither the daughter of Periyasamy Poosari, viz., Nallathangal nor any other female heirs were parties or claimed to be added as parties in the scheme suit.

4. When one of the female heirs through the lineage of Pandiyan @ Botha Poosari in a similar fashion like the petitioners made a belated claim to Hereditary Trusteeship, this Court in *A.Pandiammal v. P.Sivaji Poosari* has



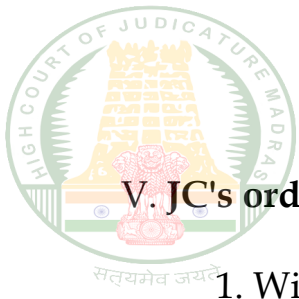
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rejected such claim, on the ground that this Court under Article 226 of the Constitution of India cannot decide on the custom, without evidence. This order of rejection has been confirmed by the Three Judges Bench of the Hon'ble Supreme Court in *SLP(C)No.33112-33113 of 2012, dated 09.11.2012*, with an observation “we are not satisfied that this matter which requires intervention of this Court, since the petitioner remained silent for about forty years as to her claim to trusteeship of the temple”.

IV. No permanent vacancy:-

1. The petitioners claim for appointment as Hereditary Trustee, while Karthik has already been appointed as a Hereditary Trustee, is illegal. It is a settled proposition that Section 54 of the Act could be resorted to only when there exists a vacancy in the office of the Hereditary Trustee. In this case, vacancy existed upon the death of Sangam Poosari on 01.10.1996 and it was filled up on 04.09.1997, by the order of the Joint Commissioner.

2. As of 2012, there exist no vacancy under the lineage of Sangam Poosari for the petitioners to stake any claim for appointing them as Hereditary Trustees.

**V. JC's order dated 06.02.2014 is not valid:-**

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1. Without challenging the order dated 04.09.1997, the petitioners filed a fresh petition u/s.54(1) of the Act, nearly after 16 years. The order dated 04.09.1997 was not set aside and as such, it holds good till date. The order dated 06.02.2014 could not have been issued in review of the order dated 04.09.1997, as the Act does not empower the Joint Commissioner with any review power.

2. No vacancy existed to invoke Section 54 of the Act. The Joint Commissioner ventured into disputed questions of fact, such as, devolvment of hereditary trusteeship through matrilineage, lack of consent from Valli, etc.

3. The Joint Commissioner erred in holding that Karthik assumed office only after attained majority and that the limitation commences from the date on which Karthik attained majority. Karthik, through his guardian, took charge as Hereditary Trustee as early as on 04.09.1997, based on the earlier order of the Joint Commissioner and therefore, the actual limitation commence from that date onwards. The Section provides for appointment of guardian to a Hereditary Trustee and as such, there is no error in it.



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4. The consent letter issued by Valli dated 17.03.1997 was recorded in the legal opinion dated 24.04.1997. This legal opinion was considered by the Joint Commissioner in his order dated 04.09.1997, while appointing Karthik as the Hereditary Trustee. The order dated 06.01.2014 holding that the consent letter was not recorded in the order dated 04.09.1997 is erroneous, as the same evidently forms a part of the files and especially the legal opinion.

VI. Impugned order is valid:-

The Commissioner, vide order dated 04.03.2015, set aside the order of the Joint Commissioner dated 06.01.2014, on the basis of limitation and jurisdiction and remanded the matter to Joint Commissioner. The first respondent, after careful consideration, confirmed the order of the Commissioner with regard to quashing the Joint Commissioner's order, however, quashed the portion of the order of remand, by holding as follows:-

a) clear case of rival claim between both parties to the office of hereditary trusteeship;

b) Section 54 of the Act enables a minor to act as a Hereditary Trustee through his guardian. Therefore, limitation ought to be computed from 1997 and not 2006. Thus, the Commissioner was right in holding that petitioners' claims are barred by limitation;



c) Having so held, the Commissioner ought not to have remanded the matter to JC;

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d) Though Valli questioned the authenticity of her consent letter dated 17.03.1997, the collateral documents, such as, correspondences, indicate that such consent was indeed on record. Therefore, in the absence of any dispute at that relevant point of time, the order dated 04.09.1997 was valid and legal. The petitioners' contention is also barred by estoppel, as she has admitted to have received shares in collection.

e) Order of Commissioner dated 04.03.2015 setting aside the JC's order dated 06.01.2014 was valid, however, the order dated 04.03.2015 is modified to the extent it remands the matter to JC.

VII. General submissions:-

1. The petitioners have admitted that Karthik is the adopted son of Sangam Poosari and that he was performing the pooja turns of Sangam Poosari earlier through Sivaji Poosari and thereafter, by himself.

2. The petitioners are disputing the appointment of Karthik, without a proper challenge to the original appointment dated 04.09.1997.

3. The petitioners admitted that the cause to dispute Karthik's

Hereditary Trusteeship arose on account of alleged stoppage of payments to



them, ie., not on account of any desire to protect the interests of the Temple or involve in the administration. The petitioners claim arises and centres on monetary benefits from the trusteeship.

4. Despite full knowledge of Karthik performing the pooja turns of Sangan Poosari and after so authorizing him, the petitioners have filed a fresh application u/s.54 of the Act, after prolonged delay.

5. The petitioners cannot maintain any claim without establishing their rights to the office and without challenging the existing order of appointment dated 04.09.1997.

6. Automatic succession to the office of hereditary trustee is applicable only when there are no rival claimants to the office.

7. The genesis of the petitions is of civil in nature and the petitioners are attempting to procure such civil rights, without approaching the appropriate forum. The issue to be decided is whether the petitioners, being the matrilineal descendants, are entitled to the office. It involves disputed questions of facts. It is beyond the scope of jurisdiction of the official



respondents. It has to be agitated only before the competent civil forum and not before this Court.

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Submissions of Sivaji Poosari (private respondent):-

Apart from adopting the arguments advanced on behalf of Karthik, Sivaji Poosari made the following arguments.

2. Law does not envisage that all the successors / legal heirs to be inducted as hereditary trustees, unless scheme expressly provides so.

3. Since Valli opted out either to the post of Trusteeship or for the guardianship of Karthik, who was a minor then, Sivaji Poosari consented to act as Karthik's guardian.

4. The petitioners claim that after adoption, Karthik's relationship with Sivaji Poosari would be severed and that only the adoptive parents and in their absence, either Valli or Court appointed guardian can act as a guardian of Karthik. As per Section 12 of the Hindu Adoptions and Maintenance Act, on adoption, the ties of the child with the family, in which it is born, is severed. However, in the absence of the adopted parents or any testamentary



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guardian or a Court appointed guardian, the defacto guardian, who is interested in the welfare of the child, could act as a guardian. Hence, there is no wrong on Sivaji Poosari to act as the guardian of Karthik, till he attained majority.

5. Sivaji Poosari is the biological father of Karthik and he acted as the defacto guardian of Karthik, considering his welfare. In fact, Sivaji Poosari gave up his rights [settlement deed] in favour of Karthik [adoption deed]. Therefore, to act as a defacto guardian, considering the interest of a minor, no authorisation or any application is required. It is only for the concerned minor to challenge the action, on his attaining majority. But it was not challenged by Karthik at any point of time.

Department's stand:-

1. The order of the first respondent is proper and valid. The first respondent has not spoken about the bar of succession of women as Hereditary Trusteeship.

2. The order dated 04.09.1997 of the Joint Commissioner has not been challenged till date. The petitioners have admitted that they had received a



part of the collections from Karthik. Valli had not furnished any reason for the abnormal delay in claiming the legal heirship of Sangam Poosari, who died on 11.10.1996. The law does not envisage all the successors / legal heirs to be inducted as Hereditary Trustees, unless any scheme expressly provides so.

3. The intention of the petitioners is only to get the share amount from the Hundial and Plate collections. The amount received in Hundial / Plate collections are only offered to the deity by the devotees, who are coming to the Temple to worship the deity and not to the Poosari / Hereditary Trustee.

4. The petitioners and the private respondents are, in one way or the other, struggling themselves by way of filing more litigations before various forums in order to share this huge income.

7. WP(MD)No.4883 of 2022:-

The petitioner, Saravana Pandian, is a Hereditary Trustee. The fourth respondent, Chellapandian, is also a Hereditary Trustee. The fourth respondent gave a complaint before the Joint Commissioner on 27.01.2022 that the petitioner was not entitled to collect the hundial collections, in view



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of the order dated 13.02.2015 of the Additional Commissioner holding that the post of Poosari is not recognized in terms of Act 2 of 1971. Though this order dated 13.02.2015 was quashed by this Court, the matter was remitted back to the file of the Additional Commissioner for fresh consideration and the orders are yet to be passed. Therefore, the fourth respondent has lodged a complaint that without any authority, the petitioner is collecting the hundial collections, by giving an undertaking before the Board of Trustees on 08.10.2015 that he would refund the amounts collected by him as Trustee.

2. Based on this complaint of the fourth respondent, the Joint Commissioner, by order dated 04.02.2022, directed the Inspector to conduct an enquiry and to report. In pursuance thereof, the Inspector has issued a notice dated 09.03.2022 calling upon the petitioner for an enquiry. As against these proceedings dated 04.02.2022 & 09.03.2022, this writ petition is filed.

Mediation:-

Fourth respondent / Chellapandi Poosari agreed to withdraw his complaint, which is the cause for the issuance of the impugned proceedings. Agreeing to this terms, both the petitioner and the fourth respondent have signed in the agreement.

**8. WP(MD)No.8184 of 2022:-**

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Facts:-

The petitioner, P.Seethalakshmi, filed this writ petition as against the order passed by the first respondent / Commissioner, HR CE, in RP.No. 145/2018 D2 dated 31.03.2022, confirming the order passed by the third respondent / Executive Officer, dated 13.11.2018, removing / relieving the petitioner from the post of poosari.

2. The Executive Officer, by applying Rule 5 of the Tamil Nadu Hindu Religious Institutions (Officers and Servants) Rules, 1964, has passed this order on the ground that the petitioner has attained the age of superannuation on 28.02.2011. In fact, this order has been passed by the Executive Officer for the third time.

3. The first order was passed on 15.06.2017, removing the petitioner from the post of poosari that she has attained the age of superannuation on 28.02.2011. This order was quashed by this Court in WP(MD)No.12395 of 2017, dated 07.02.2018, on the ground of violation of principles of natural justice and the matter was remitted back for fresh consideration. Subsequent

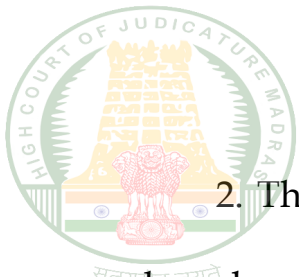


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to the same, the Executive Officer has issued a show cause notice dated 26.03.2018, for which, the petitioner responded by a representation dated 09.04.2018 seeking one month time. Thereafter, the Executive Officer has passed the second order on 26.07.2018 relieving the petitioner from the poojariship. This second order was set aside by the Joint Commissioner, by order dated 28.09.2018 and the matter was again remitted back to the Executive Officer for fresh consideration after giving opportunity to the petitioner. Thereafter, the Executive Officer has passed the order for the third time, removing / relieving the petitioner, which was confirmed by the Commissioner in the impugned order.

Petitioner's submission:-

1. The petitioner is the wife of one Pandian Poosari, Hereditary Trustee. After his demise, she made an application u/s.54(1) of the Act to record her succession and the Joint Commissioner, by order dated 04.12.2003, has also allowed the same. This order of the Joint Commissioner dated 04.12.2003 was challenged by one Maruthupandi, claiming to be the adopted son of Pandian Poosari. Litigations went upto the Hon'ble Supreme Court and ultimately, Maruthupandi's claim was negated.



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2. The Division Bench of this Court, while negating Maruthupandi's plea, observed that the orders of the Authorities have to continue. Therefore, the petitioner was performing the duties of Hereditary Trustee cum Poojari.

3. In the meantime, Maruthupandi filed a suit in O.S.No.92 of 2013 before the I Additional District Court, Madurai, based on the observations made by the Division Bench of this Court, seeking several reliefs in respect of hereditary trusteeship and poojariship and it was decreed on 15.03.2019. Challenging the same, the petitioner filed A.S(MD).No.62 of 2019 and Maruthupandi has filed Cross Objection (MD)No.3 of 2020. This Court, by judgment dated 28.04.2022, allowed the appeal and set aside the decree granted by the trial Court.

4. The status of the petitioner as Hereditary Trustee cum Poojari has been recognized by the Courts of law for more than once. While such being the position, the Executive Officer has passed the order, removing the petitioner from poojariship. Insofar as the subject Temple is concerned, pooja is being done only by the family members of the Hereditary Trustees. Once the right of Hereditary Trusteeship accrues, he/she is entitled to function as Poosari in the Temple. Except the family members of Valliammal, no other



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person has any right to do pooja in the Temple. This right has already been recognized in the Board Order dated 05.09.1935. Being a Hereditary Trustee cum Poojari, there is no age bar. Rule 5 of the Tamil Nadu Hindu Religious Institutions (Officers and Servants) Rules, 1964 or Rule 7 of the TN Hindu Religious Institutions Employees (Conditions of Service) Rules, 2020, would not apply to the case of the petitioner, inasmuch as the petitioner's function as Poojari is not by selection or appointment.

5. The first order passed by the Executive Officer dated 15.06.2017 was quashed by this Court in WP(MD)No.12395 of 2017, dated 07.02.2018, on the ground of violation of principles of natural justice. The matter was remitted back for fresh consideration with a specific direction to issue notice to the petitioner and to give her an opportunity to putforth her case. Subsequent to the same, the Executive Officer has issued a show cause notice dated 26.03.2018, for which, the petitioner responded by a representation dated 09.04.2018 seeking one month time. However, the Executive Officer has passed the second order on 26.07.2018 relieving her from the poojariship. This second order was set aside by the Joint Commissioner, by order dated 28.09.2018, holding that opportunity of hearing, as directed by this Court, was not provided to the petitioner. Having observed so, the Joint



Commissioner remitted the matter back to the file of Executive Officer. As against this order of remittance, the petitioner filed revision before the Commissioner in RP.No.135/2018. Pending this revision, the Executive Officer issued notice. Elaborating all these incidents, viz.,

i) the pendency of RP.No.135/2018;

ii) the orders passed by the Supreme Court recognizing the petitioner's status; the stay order granted by the Supreme Court as against the EO's order prohibiting the poojaries from receiving the plate collections; and

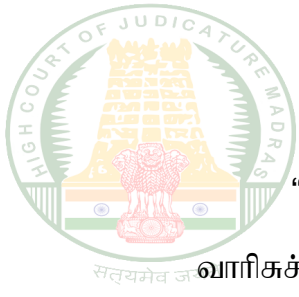
iii) the judgment and decree passed by this Court;

the petitioner sought time. However, the Executive Officer went on and passed the order for the third time, removing / relieving the petitioner, which was also confirmed by the Commissioner in RP.No.145/2018, in the impugned order.

Therefore, she prayed for appropriate orders.

Stand of the first respondent / Commissioner:-

1. The petitioner, after her husband's demise on 12.11.2003, made an application to record her as the successor of her husband in the post of Hereditary Trustee. The Joint Commissioner on 04.12.2003 has passed an order as under:-



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“... வாரிசு சான்றினை மனுதாரர் சமர்ப்பிக்கவில்லை. எனவே, உரிய வாரிசுச்சான்றிதழுடன் விண்ணப்பிக்குமாறு திருமதி பி.சீதாலெட்சுமிக்கு அறிவுரைகள் வழங்கப்படுகிறது.

காலஞ்சென்ற பரம்பரை அறங்காவலர் திரு.பி.பாண்டியன் பூசாரி முறையை எதிர்வரும் வாரத்திற்கு மட்டும் பார்த்துவர மனுதாரருக்கு அனுமதி வழங்கப்படுகிறது. ...”

The initial permission to this petitioner was granted for only one week and she was directed to produce her husband's legal heir certificate. This order of the Joint Commissioner dated 04.12.2003 was challenged by Muthupandi, claiming to be the adopted son of Pandian Possari and the Commissioner, by order dated 06.05.2004, dismissed the same. It was confirmed upto the stage of Hon'ble Supreme Court.

2. Due to various allegations, the 8 Hereditary Trustees of the Temple were temporarily suspended vide G.O.Ms.No.41, Tourism, Culture and Religious Endowment Department, dated 02.03.2016. By G.O.Ms.No.42, dated 02.03.2016, the Deputy Commissioner / Executive Officer of Arulmigu Subramaniaswamy Temple, Tiruparankundram, was appointed as Fit Person of the Temple and he took charge on 07.03.2016. Vide Commissioner's proceedings dated 12.05.2016, Executive Officer was appointed to the Temple



and he took charge on 17.05.2016. [at later stage, the appointment of Executive Officer was modified by the Hon'ble Supreme Court]

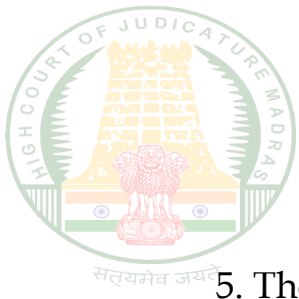
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3. The Executive Officer, during his tenure, took actions to streamline the administration of the Temple. On 16.03.2017, he passed order preventing the poosaries from taking the plate collections [at later stage, it was reversed by the Hon'ble Supreme Court]. He also found that the petitioner was working as Poojari, even beyond the age limit of 60 years. As per the explanation to Section 55 of the Act, Archakas and Poojaries are also included u/s.55 of the Act. As per Rule 5 of the Tamil Nadu Hindu Religious Institutions (Officers and Servants) Service Rules, 1964, any person appointed to such post shall retire on completing 60 years of age. Hence, action was taken u/s.55(1) of the Act and as per the resolution No.37 dated 14.06.2017 of the Fit Person, the petitioner was discharged from the duty of poojariship by the proceedings of the Executive Officer dated 15.06.2017. It was quashed by this Court in WP(MD)No.12395 of 2017 with a direction to take action after sending notice to the petitioner. Thereafter, a notice was sent to the petitioner, for which a reply was received. As it was found to be not satisfactory, again, based on the resolution No.78 dated 26.07.2018 of the Fit Person, the petitioner was discharged from the post of poojariship on



26.07.2018. It was reversed by the Joint Commissioner in AP.No.5/2018 and was remanded back, with a direction to provide an opportunity to the petitioner and thereafter, to pass orders. Thereafter, a notice was sent to the petitioner and reply was received. Finally, a detailed order was passed by the Fit Person on 13.11.2018 reliving the petitioner from the post of poojariship, due to attaining the age of 60. This order was confirmed by the Commissioner, HR CE, which was impugned herein.

4. The petitioner's claim is that both Hereditary Trusteeship and Poojariship are intertwined and that the service rules shall not apply to her. Trusteeship and Poojari are two distinct posts. The nature of duties and responsibilities attached to both the posts are totally different. In fact, as per Section 55 of the Act, the Trustees, by following the procedures laid down, have to fill up the vacancies, including the post of Poojari / Archaka, in the religious institutions. Further, as per Section 56 of the Act, the Trustees are having disciplinary control over the employees of the religious institution, including Poojari / Archaka. Therefore, a person cannot play the role of both employee - employer. If it is permitted, then erring employee cannot be punished.



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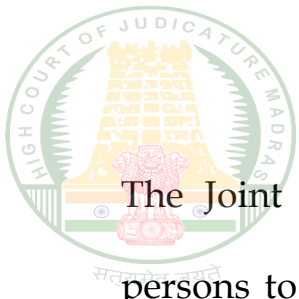
5. The petitioner was recorded as Hereditary Trustee of the Temple u/s. 54(1) of the Act. This Section speaks about filling up of vacancies in the office of Trusteeship and not to any other post in the Temple. Therefore, the order, if any, passed by the Joint Commissioner recording her as the successor to poojariship, in violation of Section 55 of the Act, was an erroneous one.

6. Any person engaged / appointed in any post to render service to the temple shall possess the qualification prescribed to the said post and the vacancies shall be filling up by following the procedures prescribed under the Rules. Nobody is entitled to succeed to any office on the ground of person next in the line of succession. Hence, the petitioner is not entitled to claim any hereditary poojariship, as a matter of right. Moreover, the concept of Hereditary Archakaship has already been abolished and has been upheld by the Hon'ble Supreme Court in *AIR 1972 SC 1586*.

9. WP(MD)No.16375 of 2022:-

Facts:-

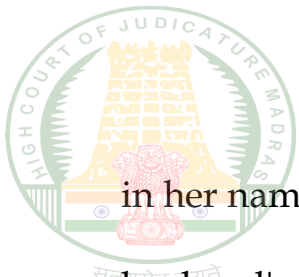
Periyannan @ Mahamuni Poosari had five wives and after his demise, each branch is having the pooja turn for one week in his overall five weeks.



The Joint Commissioner, by proceedings dated 04.04.2005, recorded five persons to represent five branches of Mahamuni Poosari, viz., Raja Poosari (W1), Chellapandi Poosari (W3), Porkai Pandian Poosari (W4), Pandiarajan (W5), Saroja Ammal (W2), for the purpose of issuance of cheques.

2. The issue in the present writ petition pertains to the fourth wife of Periyannan @ Mahamuni Poosari, namely, Indira and her heirs, Porkai Pandian, Jegadeesa Pandian. Porkai Pandian and Jegadeesa Pandian got one week out of the total 10 weeks. Porkai Pandian was receiving the amount due to that branch and was dividing the same with his brother, Jegadeesa Pandian. After the demise of Porkai Pandian, Jegadeesa Pandian was receiving the share of that branch and was said to be dividing it along with his brother's wife, Malathi.

3. Malathi has filed a petition before the Joint Commissioner to register her as the successor Trustee of her husband, Porkai Pandian, u/s.54(1) and also to issue cheques towards her share to her, instead of Jegadeesa Pandian. The Joint Commissioner, by order dated 29.11.2014, declined to record her as the successor Trustee in view of the interim order of stay granted by this Court at that relevant point of time, however, ordered for issuance of cheques



in her name, in view of the earlier proceedings dated 04.04.2005, wherein, her husband's name was recorded for issuance of cheque.

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4. In the meantime, the administration of the Temple was taken over by the Government and the Fit Person has stopped payment of share to Jegadeesa Pandian. Jegadeesa Pandian made a petition before the Joint Commissioner on 17.10.2016. By proceedings dated 03.08.2017, the Joint Commissioner declined the same, on the ground that u/s.55(2) of the Act, hereditary succession to poojariship has been abolished and as such, the Will executed by Mahamuni Poosari dated 16.08.1985, regarding poojariship among his heirs, has no legs to stand. As against this proceedings dated 03.08.2017, Jegadeesa Pandian filed WP(MD)No.15029 of 2017 and thereafter, WA(MD)No.1321 of 2017. They were dismissed, by directing him to avail the alternative remedy.

5. Thereafter, Jegadeesa Pandian filed revision u/s.21 before the Commissioner in RP.No.347/2017. It was dismissed by the Commissioner on 21.08.2018, holding that

- trusteeship alone was with the family members and not the poojariship;



- poojariship is not a property right and it cannot be conveyed to legal heirs through Will;

WEB COPY - hereditary succession to any service in the Temple was abolished by TN Act 2/1971;

- as per Section 55(2), no person is entitled for appointment to any vacancy in the religious institution, on the ground that he is next in the line of succession to the last holder of the office.

6. Challenging this order dated 21.08.2018, Jegadeesa Pandian filed WP(MD)No.23800 of 2018. It was dismissed as withdrawn on 05.07.2019 with liberty to file review u/s.114 of the Act. The review petition filed before the Government on 10.09.2019 was dismissed, vide G.O.Ms.No.139, Tourism, Culture and Religious Endowments Department, dated 29.06.2022 and it is impugned in this writ petition.

Subsequent Developments:-

Indira (Petitioner's mother):-

1. Pending this writ petition, Indira (petitioner's mother) filed an impleading petition and it was ordered. According to Indira, after the demise of her husband, Periyannan @ Mahamuni Poosari, the poojariship was carried out by Raja Poosari (first wife's son) and the share was paid to all the



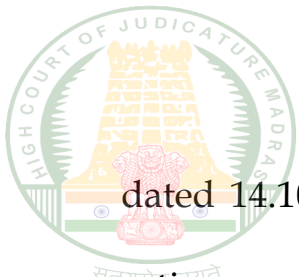
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wives of Periyannan @ Mahamuni Poosari. In the year 2004, litigation arose between the heirs of Mahamuni Poosari and all the heirs started rendering service of poojariship on rotation basis.

2. According to Indira, all of a sudden, Jegadeesa Pandian started to perform the poojariship in her place, behind her back. Even in this writ petition, Jegadeesa Pandian did not array his mother, Indira, as a party. Indira has also referred about the proceedings dated 10.12.2020, wherein, an order was passed by the JC giving 30% share to her.

Pandiammal (Petitioner's wife):-

3. Since Jegadeesapandian was not permitted to do pooja, his wife Pandiammal gave a request to permit her to do the pooja turn of Jegadeesa Pandian and filed WP(MD)No.11175 of 2018. By an interim order dated 17.05.2018, this Court permitted Pandiammmal to do the pooja. Finally, the writ petition was disposed of on 15.02.2022 with a direction to consider and pass orders on the representation of Pandiammal [*when the matter was seized of by the Commissioner in the revision u/s.21]. Thereafter, Pandiammal filed WP(MD)No.11514 of 2020 for the very same relief, when the Government has seized of the matter in review stage u/s.114. By order

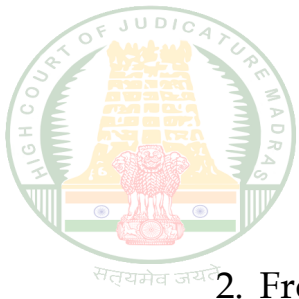


dated 14.10.2020, this Court held that since Pandiammal had the benefit of acting as poojari when the matter was pending consideration u/s.21 of the Act, the same benefit should also be granted to her while the matter is pending u/s.114 of the Act. With regard to entitlement of plate collection, the Executive Officer was directed to pass appropriate orders.

4. The Executive Officer passed an order on 10.12.2020 fixing 70% for Pandiammal and 30% for Indira (Pandiammal's mother-in-law / Mahamuni Poosari's wife). Pandiammal challenged this order in WP(MD)No.18662 of 2020 and this Court, by order dated 15.12.2020, quashed the same on the ground of violation of principles of natural justice and remanded the matter for fresh consideration. Thereafter, the Executive Officer passed another order on 30.03.2021 directing full payment to Pandiammal, during her turn. There was no representation for Indira despite several opportunities and as such, her claim was rejected by the Executive Officer.

Mediation:-

1. Porkai Pandian and Jegadeesa Pandian are sons of Indira. Porkai Pandian is no more, leaving behind his wife, Malathi and two children. Malathi inherited the pooja rights of her husband, Porkai Pandian.



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2. From the Hundial and Plate collections in each of their respective turns, Malathi and Jegadeesa Pandian have to pay Rs.75,000/- each to Indira.

3. Till the Court's direction of depositing the Hundial Collection is in force, they have to pay Rs.60,000/- and once the direction is lifted, they have to pay Rs.75,000/-.

4. From and out of the deposit of Hundial collection till date as per the direction of the Court, Indira is entitled to get 10%.

Agreeing to this terms, the parties have signed in the agreement.

10. WP(MD)Nos.16931, 18804 of 2022:-

The issue in the present writ petitions pertains to the third wife of Periyannan @ Mahamuni Poosari, namely, Ananthavalli. She had three heirs, namely, Chellapandi [son], Matcha Rani [daughter] / the petitioner herein and Veerapandiammal [daughter].

2. Matcha Rani filed these two writ petitions as against the proceedings of the Joint Commissioner in Na.Ka.No.11317/2020-1/Aa1 & Na.Ka.No.



11317/2020-2/Aa1, dated 29.03.2021. By these proceedings, the Joint

Commissioner has

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(i) rejected the petitioner's request to implead her as a party to the proceedings; and

(ii) ordered for payment of share from the Plate and Hundial Collections to Geetha Chellapandi and Saravanapandi, for their service rendered as Poojari.

Petitioner's case:-

1. After Periyannan @ Mahamuni Poosari, for the branch of Ananthavalli, Chellapandi was recognized as the Trustee and the petitioner [Matcha Rani] and Veerapandiammal are entitled to share during the pooja turn. Accordingly, Chellapandi was also sharing the income during pooja turn. However, during 2011, Chellapandi denied the rights and therefore, Matcha Rani and Veerapandiammal approached the Joint Commissioner to recognize them and to determine their share in the pooja turn of Ananthavalli's branch. The Joint Commissioner, by proceedings dated 26.08.2011, held that Chellapandi, Matcha Rani and Veerapandiammal, being the heirs of Mahamuni Poosari through Ananthavalli, are entitled to 1/3 share. Accordingly, Chellapandi was also sharing the income.



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2. Chellapandi convinced the petitioner to execute a bond in his favour and that he would hand over the share directly to her, instead of appearing before the authorities for the purpose of signing and receiving the due share, every time. However, behind her back, Chellapandi created a document as if Matcha Rani relinquished her 1/3 right and also for cancellation of the proceedings dated 26.08.2011. Based on the same, the Joint Commissioner has passed a proceedings dated 31.10.2011, without any enquiry, cancelling his earlier proceedings dated 26.08.2011 and further directed Matcha Rani and Veerapandiammal to approach the civil Court for any dispute. This proceedings of the Joint Commissioner dated 31.10.2011 was put under challenge by Matcha Rani and Veerapandiammal in WP(MD)Nos.13153, 19969 of 2013.

3. In the meantime, Chellapandi was placed under suspension by the Commissioner, HR CE for some allegations and in his place, Raja Poosari [Periyannan @ Mahamuni Poosari's son through first wife, Ulagammal] was allowed to do the pooja turn. In the meantime, Raja Poosari died and in his place, his son, Saravanapandi was inducted. Challenging the suspension order, Chellapandi raised litigations. Similarly, challenging the appointment of Saravanapandi S/o.Raja Poosari in the turn of Chellapandi, Chellapandi's



wife Geetha and daughter Uma Maheswari filed WP(MD)No.20500 of 2013 before this Court.

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4. All the three writ petitions were initially heard together. For some period, Saravanapandi and thereafter, Geetha Chellapandi were permitted to preform the murai. However, the collections were ordered to be kept separately. In the meantime, Chellapandi's suspension was set aside in A.S.No.25 of 2020 on 15.03.2021.

5. The writ petition filed by Matcha Rani was dismissed as withdrawn, without her knowledge. In the writ petition filed by Chellapandi's wife and daughter, in WP(MD)No.20500 of 2013, this Court passed an order on 14.10.2020 that the HR CE Department has to determine the amount payable to Geetha, Uma Maheswari and Saravanapandi, for their respective turns, after giving sufficient opportunities.

6. Based on the same, Geetha filed a petition before the Joint Commissioner. Chellapandi's right of poojariship and Trusteeship is ancestral [through Ananthavalli] and not self acquired. Being one of the legal heirs of Ananthavalli, the petitioner / Matcha Rani is also entitled for a share,



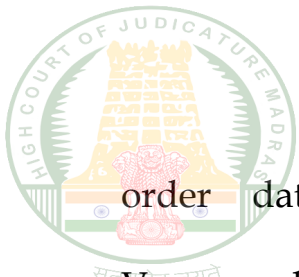
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however, Geetha has filed the petition without impleading Matcha Rani and Veerapandiammal as parties. Women are also entitled to the right of poojariship and trusteeship in any Temple. Therefore, Matcha Rani filed a petition before the Joint Commissioner. Similarly, Veerapandiammal has also filed a petition before the Joint Commissioner.

7. By the impugned proceedings dated 29.03.2021, the Joint Commissioner has rejected the Matcha Rani's application that WP(MD)No. 13353 of 2013 filed by her was dismissed by this Court and rejected Veerapandiammal's application that WP(MD)No.19969 of 2013 filed by her was dismissed by this Court. On the other hand, Geetha's application for release of share amount was allowed. Without hearing Matcha Rani [petitioner], Geetha's application was allowed.

Chellapandi's case:-

1. The Joint Commissioner, by proceedings dated 26.08.2011, held that Chellapandi, Matcha Rani and Veerapandiammal, being the heirs of Mahamuni Poosari through Ananthavalli, are entitled to 1/3 share. However, the Joint Commissioner, by subsequent proceedings dated 31.10.2011, cancelled the earlier order dated 26.08.2011. Challenging this



order dated 31.10.2011, WP(MD)No.19969 of 2013 was filed by Veerapandiammal and WP(MD)No.13153 of 2013 was filed by Matcha Rani, the sisters of Chellapandi. Both these writ petitions were dismissed as withdrawn. After this dismissal, Veerapandiammal filed a petition before the Joint Commissioner, as against the earlier order dated 31.10.2011. It was also dismissed by the Joint Commissioner on 29.08.2018, by directing to approach the civil Court.

2. During Chellapandi's suspension period, Rajapoosari and thereafter, Saravanapandi S/o.Raja Poosari were allowed to perform the pooja on behalf of Chellapandi. Challenging the same, Chellapandi's wife, Geetha and daughter, Uma Maheswari filed WP(MD)No.20500 of 2013. On the directions of this Court, Saravanapandi and Geetha Chellapandi performed the pooja turn for certain period. In the meantime, Chellapandi's suspension order was quashed in A.S.No.25 of 2020 dated 15.03.2021, by I Additional District Court, Madurai.

3. Since Geetha Chellapandi and Saravanapandi have already performed the pooja turn for certain period, on the directions of this Court, this Court, while disposing of WP(MD)No.20500 of 2013, directed HR CE



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Department to determine and to pay the emoluments for the services rendered by them as Poosaris. Only thereafter, Geetha made a petition before the Joint Commissioner for release of amount, in which, the impugned order is passed. There is no error in the same.

Mediation:-

1. Chellapandi shall continue to perform the poojariship in the Temple. Matcha Rani and Pandiammal have no right / claim of poojariship.

2. Chellapandi has agreed to pay a sum of Rs.20,000/- to Matcha Rani and Pandiammal, during his turn of poojariship.

3. Matcha Rani agrees to withdraw the present writ petitions, WP(MD)Nos.16931, 18804 of 2022 and also O.S.No.132 of 2022 filed by her before the District Munsif Court, Madurai.

4. If Chellapandi fails to honour the payment, Matcha Rani and Pandiammal are entitled to move contempt in WP(MD)No.18804 of 2022.

Agreeing to this terms, the parties [Matcha Rani and Chellapandi] have signed in the agreement.



11. WP(MD)Nos.31327, 31355, 31356 of 2023:-
WEB C WP(MD)Nos.5675, 5676, 6113, 6114 of 2024:-

Facts:-

1. The issue in these writ petitions pertains to the fifth wife of Periyannan @ Mahamuni Poosari, namely, Dhanam. She had three heirs, namely, Pandiarajan [son], Veerapandi [son] and Pandeewari [daughter]. Veerapandi is no more, leaving behind his wife, Aarthi and children, Yaswanth Pandi and Rakshitha.

2. Initially, Raja Poosari, born through the first wife of Mahamuni Poosari, being the eldest son, was receiving the share and was distributing to all the five branches. Later, the Joint Commissioner, by proceedings dated 04.04.2005, ordered for independent payment to each branches. For Dhanam's branch, the elder son Pandiarajan was ordered to receive the share. Pandiarajan and Veerapandian were doing the pooja turn and Pandiarajan used to receive the share and distribute the same. Due to some dispute, Veerapandian approached the Joint Commissioner for recording him as Trustee u/s.54(1) of the HR CE Act and to pay his share independently.



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3. The Joint Commissioner, by proceedings dated 29.11.2014, ordered for separate payment to Veerapandian for his turn, citing the earlier proceedings dated 04.04.2005. However, the Joint Commissioner has negatived Veerapandian's claim to record him as a Trustee, citing the pendency of WP(MD)No.4366 of 2009(*). Accordingly, Veerapandian was receiving the share for his pooja turn.

(* WP(MD)4366 of 2009 was filed by one Sivaji Poosai as against the Commissioner's order dated 03.04.2009. By this order, the Commissioner confirmed Joint Commissioner's order dated 20.06.2008. Initially, the parties sought for an election to select the Trustees and by this order dated 20.06.2008, the Joint Commissioner directed the parties to take necessary action in terms of Section 64 of the HR CE Act. WP(MD)No.4366 of 2009 was dismissed as withdrawn on 11.12.2014.)

4. The Commissioner initiated *suo-motu* proceedings in SMR.3/2018, u/s.21 as against the proceedings of the Joint Commissioner dated 29.11.2014.

5. In the meantime, Veerapandian died on 05.03.2020, leaving Aarthi [wife] and two children. On 07.09.2020, Aarthi made a request u/s.54(1) for



performing pooja and for her share, in her husband's line. On 16.09.2020, the Joint Commissioner issued a notice for enquiry. It was challenged by Pandiarajan in WP(MD)No.15861 of 2020. This Court, by order dated 10.11.2020, directed to pass final orders on Aarthi's application, after hearing all parties.

6. In the meantime, Dhanam also made a request for share. On the other hand, Aarthi filed WP(MD)No.17679 of 2020 for a mandamus to pass orders on her request. This writ petition was disposed of on 04.12.2020 with a direction to the Joint Commissioner to consider and pass orders. The Joint Commissioner, thereafter, passed an order on 21.12.2020, that Aarthi is entitled to succeed her husband [Veerapandian] for pooja murai. The Joint Commissioner further ordered that Aarthi has to pay a sum of Rs.50,000/- to her mother-in-law, Dhanam, till the *suo-motu* revision is decided by the Commissioner.

7. Challenging the Joint Commissioner's order dated 21.12.2020, revisions were filed before the Commissioner, HR CE.

- Dhanam filed RP.No.8 of 2021;

- Aarthi filed RP.No.71 of 2021, that the Joint Commissioner has not



considered her request to record her u/s.54(1) and that the Joint Commissioner has arbitrarily fixed Rs.50,000/-;

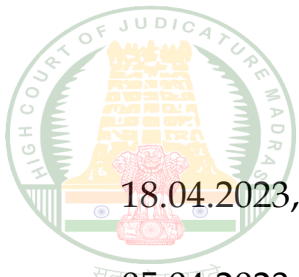
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- Pandeewari filed RP.No.153 of 2021.

8. The Commissioner, HR CE, by common order dated 13.01.2023, dismissed all the revision petitions. However, the Commissioner, by citing the pendency of the *suo-motu* revision in SMR.3/2018, has set aside the Joint Commissioner's order and further directed the Chairman of the Board of Trustees to deposit Veerapandian's share in a separate account till the disposal of the *suo-motu* revision.

9. Aarthi filed WP(MD)No.3167 of 2023 as against this order of the Commissioner dated 13.01.2023. This Court by order dated 05.04.2023 set aside the Commissioner's order dated 13.01.2023 and remitted the matter back for fresh consideration. This Court has also ordered that 25% of the amount from and out of the share of Veerapandian could be paid to Dhanam and the remaining shall be paid to Aarthi, till the disposal of the revisions.

10. Pandiarajan, on the other hand, filed WP(MD)No.8094 of 2023 as against the Commissioner's order dated 13.01.2023. It was closed on



18.04.2023, in view of the order passed in WP(MD)No.3167 of 2023, dated 05.04.2023.

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11. Aggrieved by the order dated 05.04.2023 in WP(MD)No.3167 of 2023, Dhanam and Pandeewari filed WA(MD)No.1014 of 2023. Similarly, Pandiarajan, aggrieved by the order dated 18.04.2023 in WP(MD)No.8094 of 2023, filed WA(MD)No.1046 of 2023. The Division Bench, by order dated 05.10.2023, disposed of both the appeals with a direction to the Commissioner to dispose of the *suo-motu* revision as well as RP.Nos.8, 71, 153/2021 within a stipulated time frame.

12. The Commissioner, on 19.12.2023, passed two orders, allowing the *suo-motu* revision and closing the other revisions, in view of the order passed in the *suo-motu* revision. By allowing the *suo-motu* revision, the Commissioner has negated the Joint Commissioner's order dated 29.11.2014, in and by which, the Joint Commissioner has ordered for separate payment to Veerapandian for his turn. In this *suo-motu* revision, the Commissioner has directed the Joint Commissioner to verify the qualifications of Poosaries, who are presently working in the Temple, in accordance with the rules of HR CE and to initiate further action, if deem fit.



While closing the other revisions, the Commissioner has ordered the Board of Trustees to deposit Veerapandi's share in a separate bank account.

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13. As against the orders of the Commissioner dated 19.12.2023, the present writ petitions are filed by the respective parties.

WP(MD)Nos.31355, 31356 of 2023 are filed by Aarthi, challenging the *suo-motu* revision and RP.No.71 of 2021.

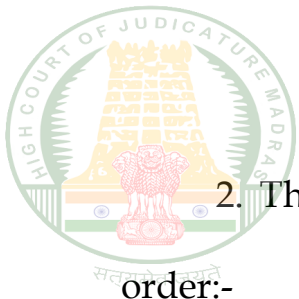
WP(MD)No.31327 of 2023 is filed by Pandiarajan challenging RP.No.71 of 2021.

WP(MD)Nos.5675, 5676 of 2024 are filed by Pandeewari challenging *suo-motu* revision and RP.No.153 of 2021.

WP(MD)Nos.6113, 6114 of 2024 are filed by Dhanam challenging *suo-motu* revision and RP.No.8 of 2021.

Points discussed by the Commissioner in the *suo-motu* revision:-

1. The then Joint Commissioner, by order dated 29.11.2014, ordered to disburse the hundial share to Veerapandi for his turn. The subsequent Joint Commissioner sent a report dated 02.02.2017 to initiate *suo-motu* revision proceedings u/s.21 to examine the legality of the order dated 29.11.2014.



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2. The following grounds were raised to examine the legality of this order:-

- then Joint Commissioner has failed to consider that Veerapandi has filed petition u/s.54(1), which deals with succession to the permanent vacancy in the office of Trusteeship only, not for poojariship;

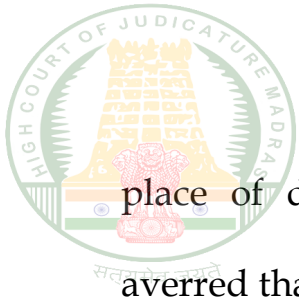
- then Joint Commissioner has passed the order dated 29.11.2014, in violation of Section 55(2) of the Act, which prohibits hereditary succession to any post in the Religious Institution;

- then Joint Commissione has passed the impugned order in a hurried manner, before his superannuation, without conducting any enquiry and perusing the records;

- then Joint Commissioner has failed to consider that as per the order dated 08.05.1981 made in OA.No.77 of 1980, the petitioner and the respondents in the said OA alone were entitled to get the share in the Hundial in lieu of their salary and that their legal heirs are not entitled to get share;

- then Joint Commissioner has failed to consider as to whether Veerapandi possessed certificate of fitness, as per Rule 12 of TN Hindu Religious Institutions (Officers and Servants) Service Rules, 1964.

3. Veerapandi, in his petition dated 18.09.2014 filed before the Joint Commissioner, requesting to record him in next in line of succession in the



place of deceased Hereditary Trustee Mahamuni Poosari u/s.54(1), has averred that

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“எனவே எனது மறைந்த எனது தந்தையின் வாரிசுகளில் ஒருவரான என்னை இந்து சமய அறநிலைய கொடைச் சட்டம் 54(1)ன் பிரிவின் கீழ் என்னை வாரிசுதாரராக பதிவு செய்து உத்திரவிடுமாறு தாழ்மையுடன் கேட்டுக்கொள்கிறேன்.

... மேலும் எனது பூஜை முறை பங்குதொகையை எனது சகோதரர் பாண்டியராஜன் பெற்று எனக்கு வழங்கி வருகிறார். எனவே தற்பொழுது எனது பெயரிலேயே பூஜைமுறை பங்குதொகை வழங்குமாறு கேட்டுக்கொள்கிறேன்.”

4. As per Section 54(1), the Joint Commissioner is empowered to decide only the succession of Hereditary Trustee to fill the permanent vacancy and not poojariship. Moreover, Section 55(2) prohibits hereditary succession to any post in the religious institution and the same has also been confirmed by the Hon'ble Supreme Court in *Seshammal's* case. While so, in the impugned order, the Joint Commissioner has ordered to disburse the hundial share to Veerapandi for his poojamurai, which is null and void.

5. The Temple was declared as an excepted Temple u/s.18, 84 of Madras Act II of 1927, vide Board Order No.2074 dated 05.09.1935. In this order, the trusteeship of the Temple alone was declared as hereditary and not the poojariship.



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6. OA.No.77 of 1980 was filed before the then Deputy Commissioner, HR CE, claiming 'entitlement to have two thirds of the receipts from the hundials and from the buildings and other sources as their remuneration for rendering service as poojari and also for meeting the cost of paditharam of the Temple'. The then Deputy Commissioner allowed this OA on 08.05.1981. It was *suo-motu* revised and set aside by the Commissioner u/s.69 in SMR.No.12 of 1992 dated 24.03.2000. As against this order, the parties have filed O.S.No.413 of 2000 before the Principal Sub Court, Madurai and it was decreed on 28.06.2002. The Department's appeal as against the same in A.S.No.801 of 2002 was dismissed by this Court on 02.11.2018. As against the same, Department has preferred an appeal before the Supreme Court and the same is yet to be numbered and taken on file.

7. The then Joint Commissioner failed to consider that as per the order dated 08.05.1981 made in O.A.No.77 of 1980, the petitioner and the respondents in the said OA alone were entitled to get the share in the Hundial in lieu of their salary. Their legal heirs are not entitled to get share. As per Section 63(e), the entitlement or honour or emolument or perquisite awarded is restricted only to the persons, who were awarded. It is not a



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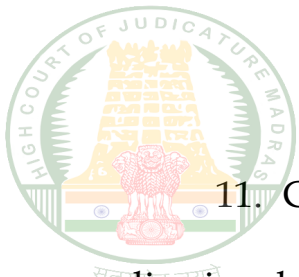
hereditary one. Accordingly, in this case, the entitlement awarded in O.A.No. 77 of 1980, which is yet to come to legal finality, is restricted only to the individuals who filed it and not to the legal heirs.

8. The then Joint Commissioner failed to consider as to whether Veerapandi really possessed qualification prescribed u/R 7(b) of the TN Hindu Religious Institutions Employees (Conditions of Service) Rules.

9. Having observed so, the Commissioner has set aside the Joint Commissioner's order dated 29.11.2014. The Commissioner has further directed the Joint Commissioner to verify the qualifications of the Poojaris, who are presently working in the Temple, in accordance with the Rules framed under the HR CE Act and initiate further action, if necessary.

Insofar as the other three revisions are concerned, the Commissioner has made the following observations:-

10. These revision petitions are filed against the consequent order extending the hundial share to Aarthi. When the order to disburse to Veerapandi [late husband of Aarthi] itself has been set aside, extending the same to his wife does not arise at all.



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11. Consequently, nothing survives in these revisions and they are dismissed. The Chairman Board of Trustee is directed to continue to deposit the share amount said to have been pertaining (late) Veerapandi, in a separate bank account.

Case of Aarthi:-

1. For this Temple, the Trustees are also the Poosaries. The poosaries are not appointed either by the Department or by the Trust Board and no time scale is fixed for them by the Temple Administration. By virtue of becoming trustees, they do poojas in the Temple. The trusteeship and poojariship are inseperable in this Temple. They are not paid with any salary or emoluments for their service. Therefore, they do not come as servants within the meaning of Section 55(2).

2. In fact, this Court, in A.S.No.801 of 2002, taking note of the same, has held that the Trustee cum Poosaries are having right to claim beneficial interest over the income of the Temple.

3. Section 55(2) operates only if the appointment to any service is made under the provisions of the Act and Rules made thereunder. It is applicable



only to office holders and servants and not for trustees, who, by virtue of that post, perform pooja.

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4. TN Hindu Religious Institutions (Officers and Servants) Service Rules, 1964, is applicable only to those, who are appointed under the said Rules. Veerapandi and no poojarie of the Temple was appointed either under the provisions of the Act or the Rules framed thereunder.

5. The contention that as per Section 55(2), hereditary succession to poojariship has been abolished, has been taken only for Veerapandi. There are 10 branches and all the poosaries, as on date, are successors. Even in the branch of Veerapandi, his brother Pandiarajan has succeeded his father and was recorded under the proceedings dated 04.04.2005. The Rule, if applied, must be applied to all.

6. Fitness certificate is required only for the Temples, which are as per agamas. The subject Temple is not governed by any agamas. No mantras or vedas are recited in the sanctum sanitorium. Therefore, no such fitness certificate is required. Moreover, no such certificate is demanded from any one in the Temple, except Veerapandi, which is discriminatory in nature.



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7. The ground that O.A.No.77 of 1980 is applicable only to the parties therein and not to the legal heirs is unsustainable. The order was passed in the OA in the year 1981. This ground was not raised then. Even when *suo-motu* revision was taken up in SMR.No.12 of 1992, no such ground was raised that the said order will be applicable only to the parties of that proceedings. The said proceedings went upto 2018 in the form of suit and thereafter, first appeal before this Court. At no point of time, such a ground was raised. In fact, pending these proceedings, the original parties to the OA had died and their legal heirs were brought on record and the orders in favour of the Trustee cum Poojaris came to be passed only by having the legal heirs as parties. Therefore, the Commissioner is estopped from taking such a plea after 38 long years.

8. There is no material for the allegation that the then Joint Commissioner has passed the order in a hurried manner. If that be so, appropriate action ought to have been initiated as against that officer, however, it was never done till date.

9. Veerapandi gave the petition on 18.09.2014. The Joint Commissioner passed orders on 29.11.2014, nearly after 72 days. It is only a petition to

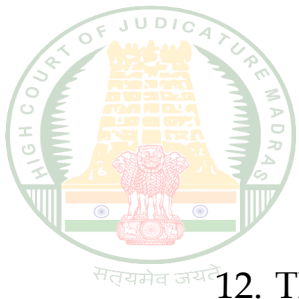


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record trusteeship and order pooja murai sharing. It is not a quasi judicial function to take evidence. In fact, Veerapandi's brother Pandiarajan was already receiving the share for the family and was distributing it to Veerapandi. Due to some dispute among the brothers, Veerapandi made a claim to give it separately.

10. Originally, Raja Poosari alone was receiving the share on behalf of all the five families and was distributing it. The then Joint Commissioner, by proceedings dated 04.04.2005, ordered to give the share to the respective five families separately. A similar order is now passed on 29.11.2014 within a particular family between brothers. It is not understandable as to how the order dated 29.11.2014 alone became illegal, when the order dated 04.04.2005 was legal and was acted upon.

11. Veerapandi's request to record him as trustee u/s.54(1) was declined by the Joint Commissioner in his proceedings dated on the premise that there is an order of stay in WP(MD)No.4366 of 2019 filed by Sivaji Poosari. This writ petition was dismissed as withdrawn on 11.12.2014. Therefore, there is no impediment as of now to record the trusteeship u/s. 54(1).



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12. The impugned order is discriminatory, as it is only for Veerapandi and not for others.

13. Pandiarajan has no say in the issue of pooja murai and share due to Veerapandi. He wants to swallow everything including Veerapandi's share. Similarly, Pandeewari has never raised voice, at the time of death of her father Mahamuni Poosari in the year 1986; at the time of the Joint Commissioner's order in the year 2005 recording Pandiarajan; at the time of Joint Commissioner's order in the year 2014 recording Veerapandi for share. Once in the year 2020, after the demise of Veerapandi, Pandeewari is raising dispute. That too, she is raising the dispute in the share of Veerapandi and not in the share of Pandiarajan or in their collective share.

14. Veerapandi's legal heirs are Aarthi [wife], Dhanam [mother] and two children. Therefore, all are entitled to 25% share each.

Pandiarajan's case:-

1. Pandiarajan was recognized as hereditary trustee in line of succession, in respect of the branch of Dhanam [fifth wife] of Periyannan @



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Mahamuni Poosari, by the Joint Commissioner, by order dated 30.03.2005, u/s.54(1). The vacancy has thus filled up in the year 2005 itself.

2. Veerapandi made a claim for recording trusteeship, without noting the fact that there is no vacancy in respect of the branch, under which he made the claim. The Commissioner has rightly allowed the *suo-motu* revision in SMR.No.3 of 2018. When the order recognizing Veerapandi itself is quashed, then the question of his wife, Aarthi, does not arise at all.

3. While passing this order, the Commissioner had ordered the Chairman Board of Trustee to deposit the Veerapandi's share in a separate account. Pandiarajan is aggrieved over this portion of the order.

4. In view of the order passed in the *suo-motu* revision, there cannot be any turn for Veerapandi. While so, passing an order to deposit Veerapandi's share is not warranted. Moreover, there is no Chairman Board of Trustees.

Pandeeswari's case:-

1. Pandiarajan is the person recognized to do the pooja in terms of the proceedings of the Joint Commissioner dated 04.04.2005 and he is already



sharing the offerings to his mother and other sibilings. When there is no vacancy, Veerapandi's claim u/s.54(1) is untenable.

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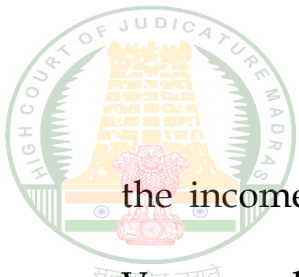
2. In the proceedings dated 21.12.2020 of the Joint Commissioner, Pandeewari has been completely excluded. No notice was sent to her. Even in this *suo-motu* proceedings, Pandeewari was not heard and no notice was issued to her.

3. The Commissioner has passed the impugned order, without referring to the grounds raised by her and closed the revision in a summary manner, with a consequential direction to deposit Veerapandi's share in a separate bank account, which is untenable.

4. The Commissioner's order to verify the qualification of the Poojaris who are presently working, is contrary to the established customs and practice and also the orders passed by this Court in A.S.No.801 of 2002.

Dhanam's case:-

1. She is the wife of Mahamuni Poosari. After Pandiyarajan attained majority, he continued to do pooja for the turn of the family and was sharing



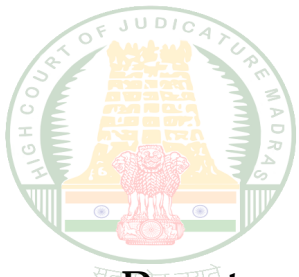
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the income with Dhanam, Veerapandi and Pandeewari. In the year 2014, Veerapandi approached the then Joint Commissioner for conducting pooja and to get share. Till his lifetime, Veerapandi was sharing the income with Dhanam and Pandeewari.

2. Aarthi has no independent right to claim either hereditary trusteeship or poojariship. The order recognizing Veerapandi to perform the poojari rights is incorrect inasmuch as the turn for the family has been performed by Pandiarajan.

3. The Commissioner's stand that the order made in OA.No.77 of 1980 is applicable only to the petitioner and the respondents therein and not their legal descendants is incorrect, inasmuch as this Court in A.S.No.801 of 2002 has held that the plaintiffs in the suit have a right to claim beneficiary interest in the income of the Temple as remuneration for the service rendered by them and for paditharam expenses.

4. The Commissioner's stand that as per Section 55(2), the concept of next in line was abolished and that the poojariship cannot be claimed by the legal heirs, is contrary to the established usage and custom of the Temple.



सर्व
Department's stand:-
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I. Merits of the case:-

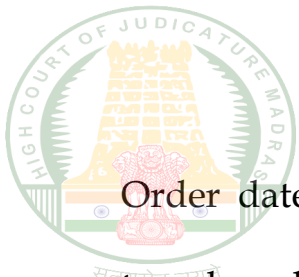
1. The order of the Commissioner is proper and valid. The temple is a Hindu Public temple and as such, the provisions of TN HR CE Act and the Rules framed thereunder would be applicable to the Temple and to the properties belonging to the minor deity. The Temple is published u/s.46(iii) of the Act.

2. In the Board Order No.2074 dated 05.09.1935, the Temple was declared as 'excepted' temple. In this order, Exhibit H - Certified Copy of the judgment in AS.No.1 of 1925 on the file of the I Additional Sub Court, Madurai, was marked, wherein, it has been recorded as under:-

"the temple was found to be a public temple. The property was not service inam but a grant to the temple. The trusteeship was with the members of the family though succession to the office of pujari was not according to law of primogeniture."

Therefore, the poojariship is not hereditary.

3. The parties contend that as per custom and usage of the Temple, poojariship is vested with the trustees. But, it was negated by the Board



Order dated 05.09.1935. As per the Board Order, they can administer the temple as hereditary trustees. The poojaris are also employees of the Temple and are working under the Trustees. They cannot play dual role as Master (Trustee) – Servant (Poojari).

4. Whether the Temple is governed by agama or not, the person who is appointed as poojari shall be trained and qualified for performing pooja. Mere birth in the family of trustees will not confer any right to become poojaries.

5. The parties contend that the Rules framed in the year 2020 will not be applicable to them. Even otherwise, the qualification for poojari was prescribed in the year 1964 itself, in Rule 12 of the TN Hindu Religious Institution (Officers and Servants) Service Rules, 1964.

II. General Submissions:-

1. The temple was granted with inam lands and from the income derived from the said lands, poojas were performed. However, the said lands were illegally alienated by the poojaries and at present, the Temple did not own any land. In the name of hereditary trustee cum poojaris, the petitioner



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and their ancestors have alienated all the properties and are now trying to swallow the income received from hundials and plate kannikais.

2. Earlier the trustees had collusively filed various suits regarding pooja rights, hundial shares, etc., amongst themselves, without arraying HR CE Department as party. They compromised the suits among themselves and are claiming that there is a decree in their favour. As per Section 43 of the Act, without the sanction of the Commissioner, there cannot be any compromise in the suit or appeal relating to a religious institution.

3. The Temple is having 4 sannathis, for which, 4 poojaries are enough for performing pooja. As per G.O.Ms.No.91, TC & RE Department, dated 28.06.2019, the admissible pay scale for Archagar in Senior Grade Temple is Rs.18,500/- to Rs.58,600/-. If salary is paid to the Poojaries, with maximum level of pay scale, per annum it would be Rs.28,12,800/-. Apart from that, the Temple is sanctioned with Accountant, Office Assistant, Clerk, 2 Consolidate Workers. For these staff, a sum of Rs.13,93,032/- per annum is being spent towards salary. From the total income of the Temple, 2.41% is paid towards salary to the other Temple staff and on the other hand, 50% of the total Hundial income was taken away by the poojaris. The poojaris are entitled to



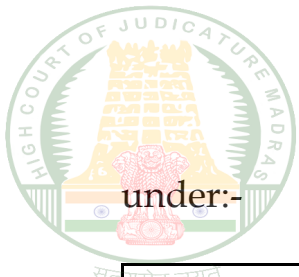
get salary for the service rendered by them, like any other employee of the Temple.

4. As many as 147 cases (*list enclosed in the counter affidavit) have been instituted by the persons claiming to be trustees in relation to this Temple and they are contesting these cases by engaging senior counsels. Most of these cases relate to hundial share.

5. The intention of the parties is only to get the share amount from the Hundial and Plate collections. The petitioners and the private respondents are, in one way or the other, struggling themselves by way of filing more litigations before various forums in order to share this huge income.

6. The amount received in Hundial / Plate collections are only offered to the deity by the devotees, who are coming to the Temple to worship the deity and not to the Poosari / Hereditary Trustee.

7. The Temple was under the administration of Hereditary Trustees for the past 85 years and the income from the Plate Collection have never been brought into the temple account. A comparison chart has been produced as



under:-

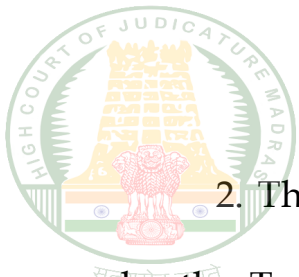
Overall income of the Temple derived before Fit Person took charge and after Fit Person took charge

Income Derived Before Fit Person took charge		Income Derived After Fit Person took charge	
Period	Amount	Period	Amount
Fasli 1403 - 1425 (upto 07.03.2016) 22 ¾ years	6,28,96,421	From 08.03.2016 to 31.12.2018 2 ¾ years	11,26,93,572

8. The Hereditary Trustees have not taken any action to augment the income of the minor deity. On the other hand, the devotional offerings offered by the devotees for the deity were swallowed by the Hereditary Trustees under the guise of hereditary trustees cum poojaries.

Subsequent Development:-

1. At present, there are 5 Trustees, however, 16 persons are getting share from the Temple income, without rendering any service. In the year 1935, there were two trustees only. However, today, it has been increased and it leads to several litigations. Therefore, in order to put an end to the menace, the Joint Commissioner has framed a scheme with the following provisions to regulate the succession to trusteeship.



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2. The Commissioner has confirmed the same in the appeal preferred by the Trustees in A.P.Nos.81, 82, 83 of 2018, by a common order dated 22.02.2020. WP(MD)No.5711 of 2020, etc., batch, filed as against this common order of the Commissioner, were disposed of by this Court on 26.06.2023, as follows:-

“3.In the light of the fact that already suit has been filed by the other trustees in O.S.No.207 of 2022 on the file of the Sub Court,Melur, this writ petition is disposed of by giving liberty to the petitioner herein to file a suit challenging the impugned order. It is needless to state that the period that has been taken for contesting this writ petition will be waived when calculating the period of limitation.

4.This Court had already granted an interim order in the above writ petition. The same shall be continued till the filing of the suit. The suit shall be filed within a period of three weeks from the date of receipt of a copy of this order. If it is not filed, the interim order granted by this Court shall stand vacated automatically.”

3. In this regard,

O.S.No.207 of 2022 was filed by Sivaji Poosari before Sub Court, Melur.

Written statement was filed by the Department and the suit is pending.

O.S.No.196 of 2023 was filed by Ponnu Pandiyan, with I.A.No.1 of 2023,

where an order of interim injunction was granted on 28.07.2023. Action is



being taken to file written statement in this suit, along with a prayer to vacate the interim injunction.

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12. Heard the learned Counsel appearing for the respective parties.

Background of the case:-

13. Arulmigu Pandimuneeswarar Temple is a renowned Temple and was declared to be a Public Temple by the I Additional Sub Court, Madurai, in A.S.No.1 of 1925. The properties of the Temple were held to be a grant to the Temple and not as service inam. This Temple was declared as an excepted Temple, by the Board proceedings dated 05.09.1935. By this proceedings, it was recorded that the trusteeship was held by the successors of Valliammal's family and that the poojariship was not according to the law of primogeniture. The Temple was not in receipt of any tastik or under the control of the Government or Committees.

14. The available records shows that the Temple was administered by one Pandi Kodangi Poosari and thereafter, by his son, Periyasamy Poosari. Periyasamy Poosari was having two sons, namely, Pandiyan @ Botha Poosari and Periyannan @ Mahamuni Poosari. Periyasamy Poosari died when his



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sons were at tender age and therefore, the Temple was administered by one Valliammal W/o.Periyasamy Poosari. Thereafter, the Temple was administered by Pandiyan @ Botha Poosari and Periyannan @ Mahamuni Poosari, the sons of Periyasamy Poosari. Pandiyan @ Botha Poosari had five sons and Periyannan @ Mahamuni Poosari had five wives, through whom, he had six sons. The Temple is now administered by the heirs of Pandiyan @ Botha Poosari and Periyannan @ Mahamuni Poosari.

15. A suit was filed among the family members before the District Munsif Court, Madurai, in O.S.No.383 of 1973 and a compromise was arrived between the parties as to their pooja turn, based on which, a compromise decree was passed on 20.06.1973, that the legal heirs of Pandiyan @ Botha Poosari and Periyannan @ Mahamuni Poosari shall have right of poosariship on every alternate weeks for 10 weeks. This arrangement is in vogue till date.

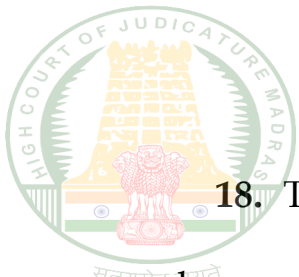
16. A peculiar right has been provided by the then Deputy Commissioner of HR CE, dated 08.05.1981, that 50% of share from the Hundial income be provided to the Poojaries, as remuneration for their service and for meeting out the expenses incurred by them for Paditharam (offerings to the deity), when the income of the Temple was Rs.25,000/- per



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annum at that point of time. This was *suo-motu* reversed by the Commissioner, HR CE, by order dated 24.03.2000. It was challenged by the Trustees before the Sub Court, Madurai, in O.S.No.413 of 2000 and the same was decreed in favour of the Poosaries by judgment and decree dated 28.06.2002. This decree was also confirmed by this Court in A.S.No.801 of 2002, dated 02.11.2018, holding that the Trustees are having beneficiary interest in the income of the Temple. In view of these proceedings, the Poojaries / Trustees were provided with a share of 50% from the Hundial collection, which appears to be paving way for several litigations claiming right over the administration of the Temple.

17. On the other hand, there was mismanagement in the administration of the Temple and several irregularities and allegations were levelled as against the Trustees. As many as 12 charges were framed as against the Hereditary Trustees and the Government has issued show cause notice and also temporarily suspended the Hereditary Trustees u/s.53(4) of the Act vide G.O.Ms.No.41, Tourism, Culture and Religious Endowments Department, dated 02.03.2016. The Government has also appointed Fit Person to the Temple, vide G.O.Ms.No.42, Tourism, Culture and Religious Endowments Department.



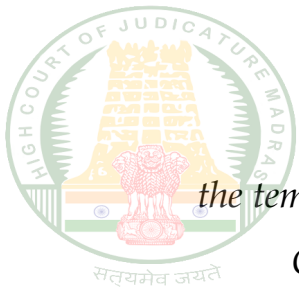
18. The charges levelled as against the Hereditary Trustees are as under:-

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“Charge No.1: During surprise inspection by the Joint Commissioner on 07.01.2015, one of the poojaris of the temple by name P.Praveen Pandian was found to have placed three vessels as if they are regular hundials installed by the department and a sum of Rs.2,000/- found in the vessels was confiscated by officials and put in the sealed hundial in the presence of public. Though severe action ought to have been taken against the said poojari by the hereditary trustees as provided under Section 56 of the Act, the hereditary trustees failed to perform their duties as per Section 28 and permitted the said poojari not only to perform pooja in the temple but also given share in the hundial collection thereby causing financial loss to the temple.

Charge No.2: Though CCTV cameras were installed for the purpose of preventing the poojaris from compulsory collection of money from worshippers and to supervise the collection in hundials etc, as per the directions of the Hindu Religious and Charitable Endowments Department, at the time of inspection on 07.01.2015, it was found that the entire system was hampered to ensure that nothing is recorded for 30 days prior to inspection and the trustees have indulged in such illegal activities and have conspired to do such acts.

Charge 3: Though one V.K.Pandian and P.M.Chellapandi Poojari who are the hereditary trustees of the temple were found to have installed hundials without permission during surprise inspection on 18.01.2000 and 15.03.2013, no action is taken against the said trustees. Hence, the trustees have failed in their duty and thereby acted against the interest of



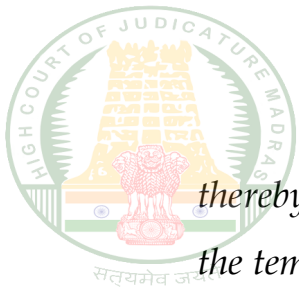
the temple.

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Charge 4: One Shri.Jagathish Pandian, a poojari of the temple along with his wife and five others were caught red handed when they stole a sum of Rs.10,225/- from the hundials installed by the department using keys, sticks, etc., and they were handed over to the Police and a case was registered before the Karuppayurani Police Station in F.I.R. No.360/2013. No disciplinary action is taken against the said poojari by the Board of Trustees as provided under Section 56 of the Act. By this, the hereditary trustees have failed to perform their duty under Section 28(2) of the Hindu Religious and Charitable Endowments Department Act. The trustees have permitted the accused to perform pooja and get share in Hundial collections and thereby the trustees have caused financial loss to the temple.

Charge No.5: Though the four shops belonging to the temple were put to public auction from 01.12.2004 for a period of three years, thereafter it was not put to public auction from 01.12.2007 thereby caused loss to the temple by forgoing the income by donation and allowed the tenants to continue for more than five years for personal gain contrary to Section 34(1) and 34(A) of the Hindu Religious and Charitable Endowments Act, 1959, and Rule 2 of Religious Institutions (Lease of immovable property) Rules 1963 and the trustees failed to fix the fair rent for the shop enjoyed by one T.K.S.Mani in terms of G.O.MS.No.456, thereby causing loss to the temple.

Charge No.6: Without permission of the department purely for personal gain of trustees tickets for Rs.25, Rs.50 and Rs.100 are printed and sold in connection with Annadhanam contrary to rules despite the fact that the donations are received by issuing miscellaneous receipts



thereby preventing the legitimate income by way of doing Annadhanam in the temple.

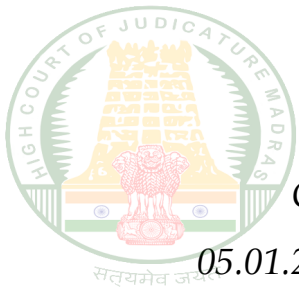
WEB COPY Charge No.7: Without permission from the department and without any plan approval or estimation, a mandapam and steel arch are constructed by the trustees, in violation of Rules 12(3) and 13 of Maintenance Rules.

Charge No.8: The Board of Trustees failed to initiate any legal action for the recovery of an extent of 2.44 acres of land in Survey No.13/2 in Melamadaï Village which was granted to the temple and illegally sold earlier by the trustees and thereby the trustees failed to perform their duty.

Charge No.9: The hair offered by the worshippers are not encashed as per norms prescribed under Section 116 (2) (xii-a) and thereby the trustees have caused financial loss to the temple for their personal gain.

Charge No.10: New Savings Account has been opened in Canara Bank, Karuppayurani Branch without the permission from the department and the trustees are also operating the account despite the fact that the official savings account is available for the temple in Indian Bank of Karuppayurani branch, with an intention to exclude temple funds from audit inspection.

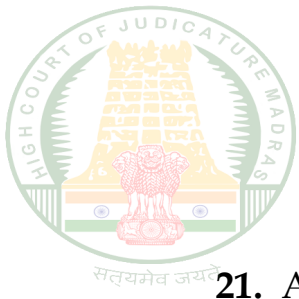
Charge No.11: The Board of Trustees has allowed one Sivaji to hold office even though his term of office has expired on 12.08.2002. The hereditary trustees have colluded with the Managing Trustees and failed to take any action for conducting election, by allowing the said Sivaji Poojari to continue as Chairman of the Board of Trustees and by furnishing false information, without lawful order which is contrary to Section 48 (2) (ii) of Act and thereby the Trustees have failed in their duties.



Charge No.12: Suppressing the fact that this Court by order dated 05.01.2008 in W.P.No.9950 of 2005 and W.P.No.9235 of 2005 has directed to conduct election for Board of Trustees and to publish the result of the election, the Trustees have failed to initiate any action for the declaration of the result of election conducted on 07.11.2015, in a lawful manner. The Board of Trustees have also colluded with the Managing Trustees to enable him to function as a trustee as well the Chairman of Board of Trustees."

19. The charges levelled against the Trustees are about dereliction of duty in taking action against the poojaries, who were found to have committed several irregularities against the interest of the Temple; maladministration of the Trust resulting in loss of income; failure to follow the rules framed under the Act. The charges, if proved, might result in removal / dismissal of the Trustees.

20. In fact, after conducting enquiry, the Government has held that the charges against the Hereditary Trustees were proved and by G.O.Ms.No.158, Tourism, Culture and Religious Endowments Department, dated 13.05.2016, removed all the Hereditary Trustees. For streamlining the administration of the Temple, Executive Officer was also appointed u/s.45(1) of the Act, on 12.05.2016.



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21. As against the order of appointment of Executive Officer dated 12.05.2016, a writ petition was filed before this Court in WP(MD)No.10257 of 2016 and this Court, by order dated 15.07.2016, quashed the appointment on the ground of violation of principles of natural justice, however, granted liberty to the Government to pass orders afresh.

22. Challenging the order of the Writ Court, the Government as well as the Hindu Religious and Charitable Endowments Department have preferred writ appeals. Likewise, challenging the order of suspension and termination, the Trustees have filed individual writ petitions and civil miscellaneous appeals. All these petitions were heard together by a Division Bench of this Court.

23. The Division Bench, by judgment dated 28.03.2017, has confirmed the order of appointment of Executive Officer u/s.45 of the Act to the Temple and quashed the order of removal of Hereditary Trustees on the ground of non-consideration of explanation offered by the Trustees. With regard to the order of suspension of Hereditary Trustees, there was a difference of opinion and therefore, the matter was referred to a third judge. As per majority, by



order dated 14.06.2018, the order of suspension was also confirmed by this Court.

24. As against the order of the Division Bench, the Trustees have filed special leave petitions before the Hon'ble Supreme Court. Before the Supreme Court, Mr.Balaji Srinivasan, learned Government Counsel stated that non-issuance of notice has disabled the Trustees from pointing out as to who could be placed in charge of the Trust, before appointing Fit Person. Based on this representation, the Hon'ble Supreme Court, by order dated 29.01.2020, has directed the Commissioner, HR CE, to issue notice to the Trustees calling upon them to show cause as to why a fit person should not be appointed after the orders of the Division Bench of the High Court. The Hon'ble Supreme Court has also formed an interim Committee consisting of five members for the purpose of managing the Temple and Trust, instead of the Executive Officer, pending decision on the show cause notices. The Hon'ble Supreme Court has further directed that the proceedings should be completed within a period of three months from date.

25. The Department, in their counter affidavit filed in these petitions, has taken a specific stand that between their taking over and the orders of the



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Hon'ble Supreme Court, in the interregnum period, when the Temple was under their administration [Fit Person from 07.03.2016 / Executive Officer from 17.05.2016], there was a steep increase in the income of the Temple. In less than three years, they generated Fixed Deposits to the tune of around Rs.7.3 Crore, whereas, when the Temple was under the control of the Trustees, there was a Fixed Deposit to the tune of Rs.2.2 Crore [for a period of more than 85 years]. When the Temple was under the administration of Hereditary Trustees, the income from the plate collections have never been brought into the Temple account.

26. The Department took a specific stand that the Trustees had collusively filed various suits regarding pooja rights, hundial shares, etc., amongst themselves, without arraying HR CE Department as a party. They compromised the suits among themselves and are claiming that there is a decree in their favour. As per Section 43 of the Act, without the sanction of the Commissioner, there cannot be any compromise in the suit or appeal relating to a religious institution.



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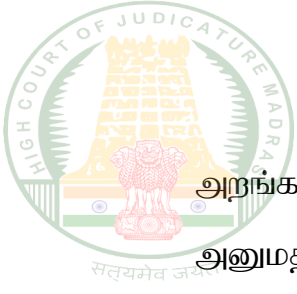
27. Since there was misappropriation and maladministration and there are several disputes regarding the trusteeship, the Joint Commissioner, HR CE has framed a scheme, on 11.10.2018, as under:-

“(3) 18 வயது நிரம்பிய பெரியசாமி – வள்ளியம்மாள் வாரிசுகள் உரிய ஆவணங்கள் மற்றும் ஆதாரங்களுடன் மேலமடை, அருள்மிகு பாண்டிமுனீஸ்வரர் திருக்கோயில் செயல் அலுவலரிடம் முன்னாள் பரம்பரை அறங்காவலரான பெரியசாமியின் வாரிசுகள் என்பதற்கான விண்ணப்பத்தினை அளிக்க வேண்டும். மேற்படி விண்ணப்பத்தின் அடிப்படையில் விண்ணப்பித்த நபர்களின் பட்டியல் திருக்கோயிலில் ஒட்டப்பட்டு அவர்களை பெரியசாமியின் வாரிசு என்று பதிவுதற்கு ஆட்சேபனைகள் ஏதுமிருப்பின் அவற்றைப் பெற்று உரிய விசாரணைக்குப் பின்னர் பெரியசாமியின் வாரிசுகளின் இறுதிப் பட்டியல் வெளியிடப்படும்.

(4) மதுரை, மேலமடை அருள்மிகு பாண்டிமுனீஸ்வரர் திருக்கோயில் சட்டப்பிரிவு 45(1)ன் கீழ் நியமனம் செய்யப்பட்ட செயல் அலுவலருடன் இணைந்து திரு.பெரியசாமி – வள்ளியம்மாள் வாரிசுகளிலிருந்து தேர்வு செய்யப்படும் ஒரு அறங்காவலர் குழு சட்டப்பிரிவு 47ல் குறிப்பிடப்பட்டுள்ள எண்ணிக்கையான ஐந்து நபர்களுக்கு மிகாமல் இந்துசமய அறநிலையத்துறை உரிய அலுவலரால் உத்தரவிடப்படும் முறைப்படி தேர்வு செய்யப்பட்டு நடைமுறையில் சட்டத்தில் குறிப்பிட்ட காலம் வரை அறங்காவலர் குழுவானது இந்துசமய அறநிலையச்சட்டம் 1959 சட்டப்பிரிவு மற்றும் விதிகளின் கீழ் செயல்படும்.

(5) சட்டப்பிரிவு 47ல் குறிப்பிட்டபடி மேற்படி இறுதி பட்டியலிலிருந்து ஐந்து நபர்களுக்கு மிகாமல் தேர்வு செய்யப்படும் நபர்கள் மூலம் உரிய சட்ட வழிமுறைப்படி பரம்பரை அறங்காவலர் குழு அமைக்கப்பட்டு அதில்

பரம்பரை அறங்காவலர்குழு தலைவர் தேர்வு செய்யப்படுவார். பரம்பரை



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அறங்காவலர் குழுத்தலைவர் பொறுப்பேற்ற காலத்திலிருந்து சட்டவிதிகளில் அனுமதிக்கப்பட்ட இரண்டாண்டு காலத்திற்கு அல்லது அப்போது நடைமுறையில் உள்ள சட்டவிதிகளில் குறிப்பிடப்படும் கால அளவிற்குள் மேற்படி பரம்பரை அறங்காவலர் குழு செயல்படும்.

(6) பரம்பரை அறங்காவலர் குழுவின் பதவிக்காலம் முடிந்த பின்னர் புதிய பரம்பரை அறங்காவலர் குழு மேற்படி பெரியசாமி – வள்ளியம்மாள் வாரிசுகளிலிருந்து இந்த வரைவுத் திட்டத்தில் குறிப்பிடப்பட்ட வழிமுறைகளின்படி புதிய அறங்காவலர் குழு தேர்வு செய்யப்பட்டு செயல்படும். அறங்காவலர் குழு தேர்தல் நடத்துதல் மற்றும் அங்கீகரித்தல் தொடர்பான உத்தரவுகள் உரிய அலுவலரால் அவ்வப்போது அமுலில் உள்ள சட்டவிதிகளின்படி பிறப்பிக்கப்படும்.

...

(11) தேர்வு செய்யப்படும் பரம்பரை அறங்காவலர் குழுவானது உரிய சட்ட விதிகளை பின்பற்றி திருக்கோயிலுக்கு தேவையான தகுதியான பூசாரிகள் மற்றும் திருக்கோயில்கள் பணியாளர்களை உரிய அனுமதி பெற்று நியமனம் செய்ய நடவடிக்கை எடுக்க வேண்டும். மேற்படி பணியாளர்கள் மீது சட்டப்பிரிவு 56(1)ன் கீழ் நடவடிக்கை எடுக்கும் அதிகாரம் அறங்காவலர் குழுவிற்கு உண்டு.

(12) திருக்கோயிலுக்கு தேவையான எந்தவிதமான பணியிடத்தையும் (பூசாரிகள் உட்பட) பொதுவிளம்பரம் செய்து எந்தவித பாரபட்சமும் இல்லாமல் தகுதியின் அடிப்படையிலும், பொது போட்டியின் அடிப்படையிலும் மற்றும் நடைமுறையில் உள்ள சட்டவிதிகளின்படியும் மட்டுமே நிரப்பப்பட வேண்டும். எந்த ஒரு பணியிடமும் (பூசாரிகள் உட்பட) வாரிசு அடிப்படையில் நியமிக்கப்படமாட்டாது.”



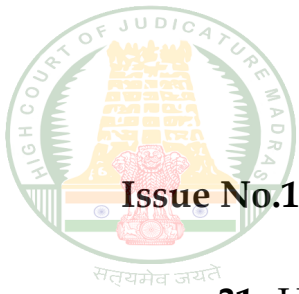
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28. This scheme framed by the Joint Commissioner was challenged by the Trustees before the Commissioner, HR CE in A.P.Nos.81 to 83 of 2018 and the Commissioner, by order dated 22.02.2020, confirmed the scheme. As against this order of the Commissioner, the Trustees have filed suits before the Sub Court, Melur, in O.S.Nos.207 of 2022, 196 of 2023. The Sub Court has granted an interim order of injunction and the suits are pending consideration.

29. This Court considered the rival submissions made on either side and perused the materials placed on record.

Court's view:-

30. The core issue raised by the parties is with regard to the (i) Hereditary Trusteeship cum (ii) Poojariship and (iii) its consequent share benefits. In fact, all the arguments advanced by the respective parties are, in one way or the other, converges in these three issues. Therefore, this Court is proposed to dwell into and answer these three issues.

**Issue No.1 – Trusteeship:-**

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31. Hereditary Trustee is defined under Sub-Section 11 of Section 6 of HR CE Act and the same is extracted as under:-

“hereditary trustee means the trustee of a religious institution, the succession to whose office devolves by hereditary right or is regulated by usage or is specifically provided for by the founder, so long as such scheme of succession is in force.”

32. The subject Temple was established by a Poosari and his legal heirs have got hereditary right of succession. This position has also been confirmed by the Board Proceedings dated 05.09.1935 that the members of Valliammal family have been in management of the Temple and its properties, that they have constituted themselves as Trustees of the Temple and the succession to the Trusteeship has been hereditary and restricted to the members of the family. Therefore, all the parties herein, being the legal heirs of Bothai Poosari @ Pandiyan and Periyannan @ Mahamuni Poosari, are entitled for the right of hereditaryship on the basis of next in line of succession u/s.54 of the Act. The said provision reads as under:-

“54. Filling up of vacancies in the offices of hereditary trustee. –

(1) When a permanent vacancy occurs in the office of the hereditary



trustee of a religious institution, the next in the line of succession shall be entitled to succeed to the office.

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(2) When a temporary vacancy occurs in such an office by reason of suspension of the hereditary trustee under sub-section (2) of section 53, the next in the line of succession shall be entitled to succeed and perform the functions of the trustee until his disability ceases.

(3) When a permanent or temporary vacancy occurs in such an office and there is a dispute respecting the right of succession to the office, or when such vacancy cannot be filled up immediately, or when a hereditary trustee is a minor and has no guardian fit and willing to act as such or there is a dispute respecting the person who is entitled to act as guardian; or when a hereditary trustee is by reason of unsoundness of mind or other mental or physical defect or infirmity unfit for performing the functions of the trustee, the Joint Commissioner or the Deputy Commissioner, as the case may be, may appoint a fit person to perform the functions of the trustee of the institution until the disability of the hereditary trustee ceases or another hereditary trustee succeeds to the office or for such shorter term as the Joint Commissioner or the Deputy Commissioner as the case may be, may direct.

Explanation. – In making any appointment under this sub-section, the Joint Commissioner or the Deputy Commissioner as the case may be, shall have due regard to the claims of the members of the family, if any, entitled to the succession.

(4) Any person aggrieved by an order of the Joint Commissioner or the Deputy Commissioner, as the case may be, under sub-section (3) may, within one month from the date of receipt of the order by him, appeal



against the order to the Commissioner.

(5) Nothing in this section shall be deemed to affect anything contained in the Tamil Nadu Court of Wards Act, 1902."

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33. Admittedly, the Temple was not in receipt of any tastik. Therefore, the Board by its proceedings dated 05.09.1935, has held that the Temple is an excepted one and there is no necessity for framing a scheme then. However, the Trustees were directed to maintain proper accounts and to submit the same periodically for the scrutiny of the Board and to administer the Temple affairs without giving room to any complaint, failing which, the Board has cautioned that proceedings for settlement of scheme will be started.

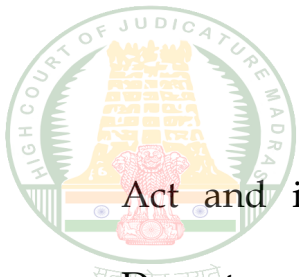
34. The fact remains that there was mismanagement and maladministration in the affairs of the Temple by the Hereditary Trustees, which led to the initiation of disciplinary proceedings by the Joint Commissioner, followed by the framing of charges, the suspension and the termination of Trustees by the Government. The charges levelled are very grave in nature. Though the order of termination was quashed and the matter was remanded by the Division Bench of this Court, the suspension order still holds the field.



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35. It appears that though the order of appointment of Executive Officer was quashed by the Writ Court on the ground of violation of principles of natural justice, the Government as well as the HR CE Department have steadfastly contested the case before the Division Bench of this Court by referring to Section 45 of the Act [Appointment and duties of Executive Officers]. The wordings of the Section commences with '*notwithstanding anything contained in this Act*' (emphasis supplied). Noting the same and after referring to a catena of decisions, coupled with the facts of the case, the Division Bench of this Court has upheld the appointment of Executive Officer and reversed the order of the Writ Court.

36. However, before the Hon'ble Supreme Court, the Government as well as the Department, represented by Mr.Balaji Srinivasan, learned Counsel, took a different stand that non-issuance of notice has disabled the Trustees from pointing out as to who could be placed in charge of the Trust u/s.54 of the Act, before appointing Fit Person. It is not known as to what transpired or argued before the Hon'ble Supreme Court, but, the fact remains that there is not even a mention about the provisions available u/s.45 of the



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Act and it is not known as to why the Government as well as the Department, which made determined arguments before this Court, have took a irresolute stand before the Hon'ble Supreme Court.

37. Based on this representation, the Hon'ble Supreme Court has directed the Commissioner, HR CE, to issue notice to the Trustees calling upon them to show cause as to why a fit person should not be appointed after the orders of the Division Bench of the High Court. Pending decision on the show cause notices, the Hon'ble Supreme Court has handed over the administration of the Temple and Trust with an interim Committee, instead of the Executive Officer. The Hon'ble Supreme Court has given an ultimatum that the proceedings have to be completed within a period of three months from date. While so, it is not known as to why the Department has not passed any orders in this regard for the past three years.

38. This Court feels it apposite to extract the orders of the Hon'ble Supreme Court in Civil Appeal No.803 of 2020, dated 29.01.2020, as under:-

"Accordingly, Mr.Srinivasan, learned Additional Advocate General, states that the Commissioner, Hindu Religious and Charitable Endowments Department shall issue a notice to the hereditary trustee(s)



under the provisions of the Act calling upon them to show cause why a fit person should not be appointed after passing of the impugned judgment(s) and order(s) by the High Court.

Order accordingly.

In the meanwhile, pending decision on the show cause notices, we consider it appropriate that a Committee of the following persons shall manage the temple and trust instead of the Executive Officer:

... ..

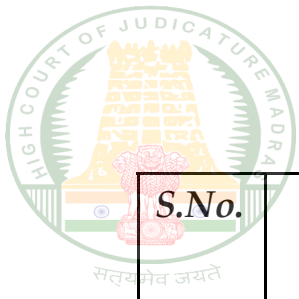
At this stage, Mr.Srinivasan, learned Additional Advocate General, states that a scheme has already been framed under section 64 of the Act. However, it is obvious that the validity or otherwise of the scheme is not the subject matter of these proceedings. We decline to comment on that at this stage.

We further direct that the proceedings may be completed as soon as possible preferably within a period not later than three months from today."

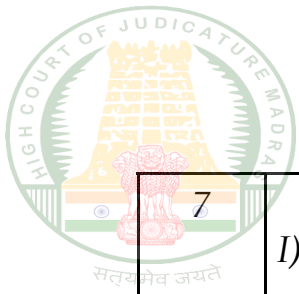
39. Be that as it may, after the suspension of the Trustees, the Temple was under the administration of the Department, through Fit Person / Executive Officer, for a period of 2 ³/₄ years. The Commissioner, HR CE, in the counter affidavit has filed a comparison chart as under:-

I. Comparison of Important Income Heads

(For Fasli 1423, 1424 and to that of Fasli 1426, 1427)



S.No.	Important Heads of Income	Income during the period of Hereditary Trustees Administration		Income during the period of Official Fit Person and the Executive Officer Administration	
		Fasli 1423 Rs.	Fasli 1424 Rs.	Fasli 1426 Rs.	Fasli 1427 Rs.
1	General Hundial	91,95,719	84,11,666	1,80,64,549	1,84,48,095
2	Plate Collection Hundial	NIL	NIL	25,04,440	1,07,59,022
3	Annadhanam Hundial (Financial Year)	2,77,537	3,49,990	13,23,249	13,00,837
4	Thiruppani Hundial	NIL	NIL	4,40,156	15,44,361
5	Tickets i) Coconut and Fruit ii) Milk Abhishekam iii) Rose Water Abhishekam iv) Large Garland v) Hair Tonsure Ticket vi) Sandal Abhishekam vii) Vibuthi Abhishekam viii) Quick Dharshan	NIL	NIL	67,62,931	1,13,44,910
6	Donated Articles	NIL	NIL	1,27,995	3,53,510



7	Lease Rights I) Tonsured Hair Auction ii) Ear Boring Auction iii) Ghee Lamp sales iv) Coconut v) Goat, Hen, Cock Collection vi) Child Cradle Collection vii) Fire Wood Pieces Collection	NIL	NIL	25,02,714	45,74,795
8	Cash Donation	8,206	22,001	44,923	1,06,208
9	Foreign Currency	NIL	NIL	NIL	2,00,259
	Total	94,81,462	87,83,657	3,17,70,957	4,86,31,997
10	Gold	20.250 gram	30.600 gram	241.500 gram	416.000 gram
11	Silver	317.00 gram	245.00 gram	856.500 gram	1768.000 gram
	Total	337.250 gram	275.600 gram	1,098.000 gram	2,184.000 gram
12	Fixed Deposit (Investment)	2,18,76,912 (For about 85 Years)		7,30,18,960 (For 2 ¾ Years)	

II. Specific Income Comparison

Head of Incomes and the income derived from therein which are existing both in the period of Hereditary Trustees and in the period of

official Fit Person

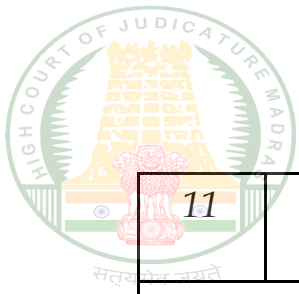


S.No.	Head of Income	Income derived before Fit Person took charge of the temple (Hereditary Trustees period)		Income derived after Fit Person took charge of the temple	
		Period	Amount Rs.	Period	Amount Rs.
1	General Hundial Income (Excluding Annadhana Hundial)	Fasli 1418 to 1425 (Upto 06.03.2016) for 7 $\frac{3}{4}$ years	3,79,04,973	From 07.03.2016 to 31.12.2018 for 2 $\frac{3}{4}$ years	5,15,62,252
2	Annadhana Hundial alone	2008-2009 to 2015-2016 8 years	14,73,547	2016-2017, 2017-2018, 01.04.2018 to 31.12.2018 2 $\frac{3}{4}$ years	37,77,621
3	Jewel Items – Gold	Fasli 1401 (1992) to 25.05.2015 (22 years and 5 months)	118.750 grams	In 2 $\frac{3}{4}$ years	890.500 grams
4	Jewel Items – Silver	Fasli 1401 (1992) to 03.08.2015 (22 years and 8 months)	1158 grams	In 2 $\frac{3}{4}$ years	3699 grams
5	Fixed Deposits	In 85 years	2,18,76,912	In 2 $\frac{3}{4}$ years	7,30,18,960

III. Head of Incomes which are introduced only in the period of official Fit Person and the Income derived for the past 2 $\frac{3}{4}$ years



S.No.	Head of Income	Fasli 1426 Income Rs.	Fasli 1427 Income Rs.	Fasli 1428 Income Rs.	Total Income under this Head Rs.
1	Tonsuring of Human Hair	19,00,000	29,50,109	35,90,099	84,40,208
2	Archanai Ticket (Milk Abishegam, Rosewater Abishegam etc.)	67,62,931	1,13,44,910	61,02,290 (01.07.2018 to 31.12.2018)	2,42,10,131
3	Ear Boring Auction	53,000	65,000	77,500	1,95,500
4	Coconut	71,000	73,000	85,500	2,29,500
5	Goat, Hen, Cock Collection	57,714	3,46,286	6,85,000	10,89,000
6	Ghee Lamp Sales	4,21,000	10,98,900	NIL	15,19,900
7	Child Cradle	NIL	41,500 (introduced first time)	45,700	87,200
8	Fire Wood Pieces Collection	NIL	NIL	6,500 (introduced first time)	6,500
9	Sale of Kanikkai Articles such as Brass Lamps etc., offered by devotees	1,27,995	3,53,510	3,47,521 (01.07.2018 to 31.12.2018)	8,29,026
10	** Plate Collection Hundial	25,04,400 (10.03.2017 to 30.06.2017)	1,07,59,022 (01.07.2017 to 30.06.2018)	55,95,268 (01.07.2018 to 31.12.2018)	1,88,58,730



11	Tiruppani Hundial	4,40,156	15,44,361	6,13,970	25,98,487
** During the period of Hereditary Trustees, the Plate Collection amount was not accounted into the temple income for the past 85 years upto Fasli 1425. During the period of Fit Person, the said income is brought into the temple account.					

IV. Overall Income of the Temple derived before Fit Person took charge of the Temple (Hereditary Trustees period) and after Fit Person took charge of the Temple

S.No.	Income derived before Fit Person took charge of the temple (Hereditary Trustees period)		Income derived after Fit Person took charge of the temple	
	Period	Amount Rs.	Period	Amount Rs.
1	From Fasli 1403 – 1425 (Upto 07.03.2016) 22 ³ / ₄ years	6,28,96,421	In 2 ³ / ₄ years (From 08.03.2016 to 31.12.2018)	11,26,93,572

V. Receipt of Foreign Currency Value during the period of Fit person

In the Fasli 1428, during the period of Fit Person, the Foreign Currency was received to the value of Rs.2,00,259/-.

40. The revenue accumulated by the Department for the Temple during their administration reveals that there was maladministration by the Trustees in the affairs of the Temple, apart from the charges levelled as against them.

The comparison table prepared by the Commissioner, HR CE, as recorded



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supra, reveals that the income of the Temple was not properly recorded and accounted for. However, on the orders of the Hon'ble Supreme Court, the administration has been taken over from the Executive Officer to an interim committee appointed by the Supreme Court, till such time, orders are passed with regard to appointment of Fit Person / Executive Officer after issuing notice to the Trustees. The Hon'ble Supreme Court has fixed three months outer time limit, hoping that final orders in these proceedings would be passed by then. But, the Government, on the other hand, appears to be sitting in the shadow and allowing the interim Committee, which was constituted based on the recommendations of the suspended Trustees, to administer the Temple for the past three years.

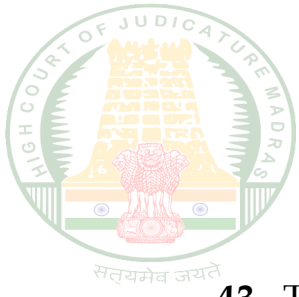
41. The parties before this Court, being the legal heirs of Periyasamy Poosari and Valliammal, are entitled to be the Hereditary Trustees on the line of succession. Though the Board, in its proceedings dated 05.09.1935, has held that there was no necessity for framing a scheme then, it has cautioned the Trustees to administer the Temple affairs without giving room to any complaint, failing which, proceedings for settlement of scheme will be started. Given the nature of charges levelled as against the Trustees and the maladministration with regard to the accumulation of revenue, this Court is



of the view that it is just and necessary to frame a scheme to regulate the affairs of the Temple.

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42. Moreover, during the year 1935, there was hardly one or two Hereditary Trustee, ie., Pandi Kodangi Poosari, followed by his son, Periyasamy Poosari. However, given the passage of generations, now there are five sons for one branch of Periyasamy Poosari [through Bothai Poosari @ Pandiyan] and six sons for the another branch of Periyasamy Poosari [through Mahamuni Poosari @ Periyannan]. The generation next to these branches have begun their claim now. Apart from the sons, the daughters are also there as heirs. There cannot be any discrimination that the sons alone can function as hereditary trustees / poojaries, inasmuch as Valliammal was permitted to administer the Temple as per the recordings of the Board dated 05.09.1935 and that this Court, in more than one petitions, has allowed the female heirs, viz., wife of a Poosari, to do the pooja activities in the place of their husbands. Given this number of eligible persons claiming hereditary trusteeship, the situation now warrants the framing of a scheme limiting the number of hereditary trustees by selection / election.

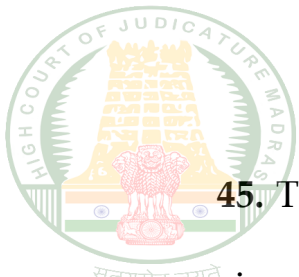


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43. The decree referred by the parties in O.S.No.383 of 1973 dated 20.06.1973, as that of a scheme suit, is based on a compromise arrived upon between them as to their pooja turn, without the HR CE Department as a party to the proceedings. Therefore, it cannot be termed as a scheme suit.

44. Since a scheme has now been framed by the Joint Commissioner, the Competent Authority, as directed in the Board Proceedings dated 05.09.1935 and the same is the subject matter of the suits in O.S.Nos.207 of 2022 and 196 of 2023 before the Sub Court, Melur, this Court is of the view that the issue raised in these writ petitions regarding trusteeship can be resolved based on the outcome of these suits, either by adopting the scheme framed by the Joint Commissioner '*as it is*' or '*with some modifications*'. The Sub Court, Melur, is expected to give priority and to dispose of these suits as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy this order. The parties to the *lis* are expected to co-operate for early disposal of the suits, so that the scheme can be finalized at the earliest.

This issue is answered accordingly.



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45. The Hon'ble Supreme Court has formed the interim Committee for managing the affairs of the Temple till such time a decision is taken on the show cause notices. The Commissioner, HR CE, is expected to comply with the directions of the Hon'ble Supreme Court in its letter and spirit. Therefore, the Commissioner shall issue notice to the Trustees, if not issued already, calling upon them to show cause as to why a Fit Person / Executive Officer should not be appointed after the orders of the Division Bench of this Court and take a decision thereon, immediately.

46. As on date, the Trustees are under suspension. While setting aside the order of removal passed by the Government u/s.53 of the Act, the Division Bench, on 28.03.2017, has remanded the matter back to the Government for passing appropriate orders after holding enquiry, within a period of six months. Therefore, the Secretary to Government is expected to pass final orders in this regard, immediately.

Issue No.2 – Poojariship:-

47. It is claimed by the parties that the Hereditary Trustees are functioning as Hereditary Poosaries. They further claim that it is their



custom. But, in the Board Proceedings dated 05.09.1935, it has been recorded that the trusteeship was with the family members and that the poojariship was not according to primogeniture.

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48. Moreover, the concept has hereditary poojariship has been abolished by the Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1970. As per this amendment Act, Section 55 of the Act [Appointment of office holders and servants in religious institutions] was amended to the effect that no person shall be entitled to appointment to any vacancy [office-holders or servants, which include Archakas and Poojaries] merely on the ground that he is next in the line of succession to the last holder of the office.

49. For better appreciation, Section 55 of the Act is extracted as under:-

"55. Appointment of office-holders and servants in religious institutions.

(1) Vacancies, whether permanent or temporary, among the office-holders or servants of a religious institution shall be filled up by the trustee in all cases.

Explanation. - The expression "office-holders or servants" shall include archakas and pujaries.



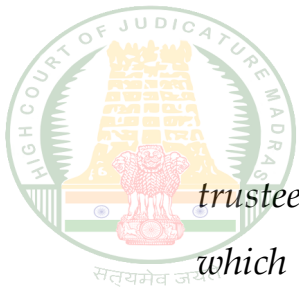
(2) No person shall be entitled to appointment to any vacancy referred to in sub-section (1) merely on the ground that he is next in the line of succession to the last holder of the office.

(3) Omitted

(4) Any person aggrieved by an order of the trustee under sub-section (1) may, within one month from the date of the receipt of the order by him, appeal against the order to the Joint Commissioner or the Deputy Commissioner, as the case maybe."

50. This Amendment was put under challenge before the Hon'ble Supreme Court and a Constitution Bench of the Hon'ble Supreme Court in *Seshammal and Others v. State of Tamil Nadu* [(1972) 2 SCC 11] has upheld the amendment, by holding as under:-

"21. ... The Archaka has never been regarded as a spiritual head of any institution. He may be an accomplished person, well versed in the Agamas and rituals necessary to be performed in a temple but he does not have the status of a spiritual head. Then again the assumption made that the Archaka may be chosen in a variety of ways is not correct. The Dharam-karta or the Shebait makes the appointment and the Archaka is a servant of the temple. It has been held in *K. Seshadri Aiyangar v. Ranga Bhattar* that even the position of the hereditary Archaka of a temple is that of a servant subject to the disciplinary power of the trustee. The trustee can enquire into the conduct of such a servant and dismiss him for misconduct. As a servant he is subject to the discipline and control of the



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trustee as recognised by the unamended Section 56 of the principal Act which provides "all office-holders and servants attached to a religious institution or in receipt of any emolument or perquisite therefrom shall, whether the office or service is hereditary or not, be controlled by the trustee and the trustee may, after following the prescribed procedure, if any, fine, suspend, remove or dismiss any of them for breach of trust, incapacity, disobedience of orders, neglect of duty, misconduct or other sufficient cause". That being the position of an Archaka, the act of his appointment by the trustee is essentially secular. He owes his appointment to a secular authority. Any lay founder of a temple may appoint the Archaka. The Shebaites and Managers of temples exercise essentially a secular function in choosing and appointing the Archaka. That the son of an Archaka or the son's son has been continued in the office from generation to generation does not make any difference to the principle of appointment and no such hereditary Archaka can claim any right to the office. Thus the appointment of an Archaka is a secular act and the fact that in some temples the hereditary principle was followed in making the appointment would not make the successive appointments anything but secular. It would only mean that in making the appointment the trustee is limited in respect of the sources of recruitment. Instead of casting his net wide for selecting a proper candidate, he appoints the next heir of the last holder of the office. That after his appointment the Archaka performs worship is no ground for holding that the appointment is either a religious practice or a matter of religion.

22. In view of sub-section (2) of Section 55, as it now stands amended, the choice of the trustee in the matter of appointment of an Archaka is no longer limited by the operation of the rule of next-in-line of

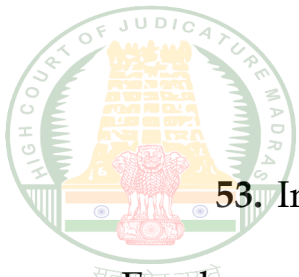


succession in temples where the usage was to appoint the Archaka on the hereditary principle. The trustee is not bound to make the appointment on the sole ground that the candidate, is the next-in-line of succession to the last holder of office. To that extent, and to that extent alone, the trustee is released from the obligation imposed on him by Section 28 of the principal Act to administer the affairs in accordance with that part of the usage of a temple which enjoined hereditary appointments. The legislation in this respect, as we have shown, does not interfere with any religious practice or matter of religion and, therefore, is not invalid."

51. Under Article 141 of the Constitution of India, the law laid down by the Hon'ble Supreme Court is for the entire country. Therefore, the parties before this Court cannot claim otherwise and that the Tamil Nadu Hindu Religious Institutions Employees (Conditions of Service) Rules, is squarely applicable to them as well.

52. Rule 2(1)(i) defines an Ulthurai (Indoor) employee as under:-

"'Ulthurai (Indoor) employee' means an employee whose duties mainly relate to the performance or rendering assistance in the performance of poojas, rituals and other services to the deity, the recitation of mantras, vedas, prabandhams, thevarams and similar invocations and performance of duties connected with such performance or recitation in a religious institution."

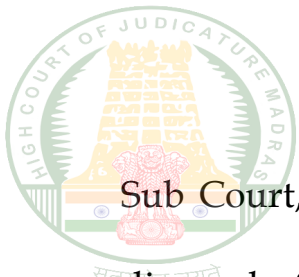


53. In Rule 3, Categories XXXII, XXXIII, XXXIV of Group - B (Indoor Employees) include Gurukkal / Archaka / Poosari for Class I - Senior Grade Temples. Similarly, Categories II, III, IV of Group - B (Indoor Employees) include Gurukkal / Archaka / Poosari for Class II - Non Senior Grade Temples. Rule 31 provides for retirement of every person on attaining the age of sixty years [erstwhile Rule 5 of Tamil Nadu Hindu Religious Institutions (Officers and Servants) Service Rules, 1964].

54. Poojari is a servant of the Temple and Poojari is to be appointed by the Trustee. Subject to Section 28(1) of the Act [Care required of Trustee and his powers], the Trustee has to appoint the Poojari, not in the line of succession alone. As a servant, the Poojari is subject to the discipline and control of the Trustee. There cannot be any dual role as Hereditary Trustee cum Hereditary Poojari.

This issue is answered accordingly.

55. Moreover, as recorded supra, the Joint Commissioner, HR CE, has already framed a scheme, which includes Poojariship also. This scheme is now the subject matter of O.S.Nos.207 of 2022, 196 of 2023, on the file of the



Sub Court, Melur. Since this Court has already issued a direction for early disposal of the suits, the right of the parties for continuation of poojariship and the applicability of the scheme would be decided based on the outcome of the suits. The parties have to workout their remedy with regard to their claim, depending upon the outcome of the suits.

56. However, if the parties are claiming share based on the service [poojari] already rendered by them, then the Joint Commissioner, HR CE, Madurai, shall ensure that proportionate share, as on that date, is settled to them within a period of three months from date.

57. The Executive Officer to be appointed, in pursuance of the direction issued by this Court in Paragraph No.45, shall take note of the above observations and shall proceed accordingly, till such time, the permanent / temporary vacancy of Trusteeship is filled up as per Section 54 of the Act.

Issue No.3 – Share of Hundial Income to the Poosaries / Trustees:-

58. One has to understand that the offerings made by the devotees, who are coming to the Temple, is for the deity and not for any individual.

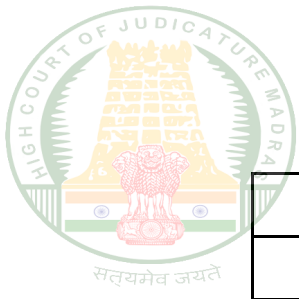


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However, this Court, in A.S.No.801 of 2002, dated 02.11.2018, while confirming the decree passed in O.S.No.413 of 2000, dated 28.06.2002, regarding the share of Hundial income, has observed that the Poosaries / Trustees are having beneficiary interest in the income of the Temple, as remuneration for the service rendered by them and for the 'paditharam' expenses.

59. Had the Commissioner, HR CE framed an alternative scheme / arrangements for meeting out the paditharam expenses and any remuneration for the poojaries for their livelihood, the case would have stood in a different footing. Be that as it may, from the counter affidavit filed by the Commissioner, HR CE, the share given to the poojaries in lieu of remuneration for performing pooja, for the last 10 years, is as under:-

Fasali	Share paid to Poojari (Rs.)
1423	34,44,053
1424	28,53,001
1425	15,79,124
1426	75,05,656
1427	70,36,766
1428	72,83,279
1429	64,36,039
1430	64,66,669



1431	82,42,003
1432	1,24,28,559

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60. As per the practice in vogue, the two branches of Pandiyan @ Botha Poosari [5 pax] and Periyannan @ Mahamuni Poosari [5 pax] are having regular pooja turn alternatively for ten weeks, apart from the chithirai festival turn. As per this arrangement, there should be 10 Poosaries and if a Poosari is having the 1st turn of regular pooja, his next turn would come, after ten weeks, in the 11th turn. However, there are litigations regarding the claim of poojariship and the consequent sharing of hundial income. On a closer look, it appears that roughly a sum of Rs.6.3 Crore was paid as Poosaris' share alone for the past ten years. This huge income appears to be paving way for the litigations. Most of the writ petitions before this Court are filed claiming right in the hereditaryship and poosariship, as such they will be getting some share from the Hundial collections. In fact, the Department has furnished a list of 147 cases instituted by the persons claiming to be Trustees in relation to this Temple and they are contesting these cases by engaging Senior Counsels. Most of these cases relate to Hundial share alone. On the other hand, it is a very sorry state of affairs that even though the devotees are offering this much of donations to the deity, neither the Department nor the



Trustees have made any developments in and around the Temple.

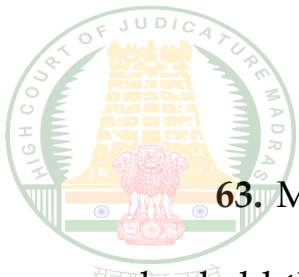
Ultimately, the deity has been left in lurch.

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61. It appears that this Court, in yet another proceedings in W.P.No.13 of 1993, dated 30.09.1999, while dealing with a *suo-motu* revision raised by the Commissioner regarding the very same issue of sharing the hundial income, has observed as follows:-

"19. In fine, the Commissioner is entitled to proceed with the impugned suo-motu proceedings (i) as and when the interest of the public relating to the affairs of the respective temple requires such action; (ii) the conditions imposed in the order dated 08.05.1981 are violated; and (iii) any change of circumstances in the affairs of temple requires the revisional authorities, to reopen the matter. ..."

62. Notwithstanding the rise in the Temple's Hundial income from then to now, this Court is of the view that, given the number of litigations owing to this much of share amount and the misappropriation as well as maladministration, which led to the action initiated by the Department, this change in circumstances in the affairs of the Temple requires the revisional authority to reopen the matter, as per the above order dated 30.09.1999.



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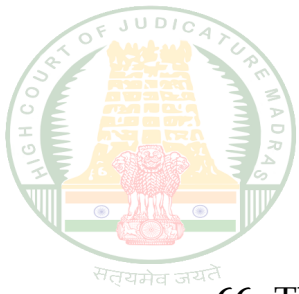
63. Moreover, this Court, in A.S.No.801 of 2002, dated 02.11.2018, has also held that the Joint Commissioner can revise the percentage of the share from the hundial income for the Poosaries / Trustees taking into consideration of all factors, like, the increase in hundial income, the rise in cost of living, the rising cost of paditharam expenses and the rights of the Hereditary Trustees / Poosaries to lead a life with dignity.

64. Therefore, this Court directs the Commissioner, HR CE, to take further action in this regard and **this issue is answered accordingly.**

All the three issues are, accordingly, answered.

WP(MD)No.5603 of 2020:-

65. The show cause notice issued by the interim Committee is under challenge in this writ petition in WP(MD)No.5603 of 2020. As discussed supra, the interim Committee was constituted by the Hon'ble Supreme Court for managing the affairs of the Temple, instead of the Executive Officer, till such time, the Commissioner is taking a decision on the show cause notices issued for appointing the Fit Person / Executive Officer.



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66. The interim Committee, which is an adhoc one, is not competent to take action as against the other Trustees. Therefore, the impugned notice dated 06.03.2020 is quashed. Once a permanent Board of Trustees or Executive Officer / Fit Person is appointed, it is open to them to take a decision in this regard.

WP(MD)No.5603 of 2020 is allowed in the above terms.

67. In terms of the answering of Issue Nos.1 to 3, WP(MD)Nos.16137, 16138 of 2021; 31327, 31355, 31356 of 2023; 5675, 5676, 6113, 6114 of 2024 are disposed of.

68. Insofar as WP(MD)Nos.4883, 16375, 16931, 18804 of 2022 are concerned, though the parties have settled the issue among themselves, the Department is expected to take further course of action based on the observations made by this Court in answering the Issue Nos.1 to 3.

69. The petitioner in WP(MD)No.8184 of 2022, on attaining the age of 60 years, is due to retire. Therefore, in view of the answering of Issue No.2, this



Court is not inclined to interfere with the impugned order dated 31.03.2022.

Accordingly, WP(MD)No.8184 of 2022 is dismissed.

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70. In the result,

i) WP(MD)No.5603 of 2020 is allowed;

ii) WP(MD)No.8184 of 2022 is dismissed; and

iii) WP(MD)Nos.16137, 16138 of 2021; 4883, 16375, 16931, 18804 of 2022; 31327, 31355, 31356 of 2023; 5675, 5676, 6113, 6114 of 2024 are disposed of.

There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Internet : Yes

Index : Yes / No

NCC : Yes / No

10.12.2024

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Note:

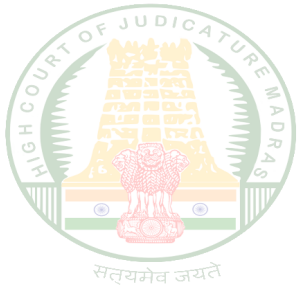
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Mark a copy of this order to

1. The Subordinate Judge,
Melur.
2. The Commissioner,
Hindu Religious and Charitable Endowments Department,
Chennai.
3. The Secretary to Government,
Tourism, Culture and Religious Endowments Department,
Secretariat, Chennai.

To

The Joint Commissioner,
Hindu Religious and Charitable Endowments
(Administration) Department,
Madurai – 625 001.



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WP(MD)Nos.5603 of 2020, e

B.PUGALENDHI, J.

gk

WP(MD)Nos.5603 of 2020,
16137, 16138 of 2021,
4883, 8184, 16375, 16931, 18804 of 2022,
31327, 31355, 31356 of 2023,
5675, 5676, 6113, 6114 of 2024

10.12.2024