

CORRECTED

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.803 OF 2020
[ARISING OUT OF SLP(C) NO.18818 OF 2018]

SARAVANA PANDIAN

APPELLANT(S)

VERSUS

GOVT. OF TAMIL NADU & ORS.

RESPONDENT(S)

WITH

Civil Appeal Nos.806-807/2020 (@SLP(C) Nos.18819-18820/2018)

Civil Appeal Nos.808-809/2020 (@SLP(C) Nos.20533-20534/2018)

Civil Appeal No.810/2020 (@SLP(C) No.28159/2018)

Civil Appeal Nos.804-805/2020 (@SLP(C) Nos.28484-28485/2017)

Civil Appeal Nos.811-812/2020 (@SLP(C) Nos.30698-30699/2018)

CONTEMPT PETITION (C) No.2094/2018 in Civil Appeal Nos.808-809/2020 (@SLP(C) NOS.20533-20534/2018) AND CONTEMPT PETITION (C) No.434/2019 in Civil Appeal No.803/2020 (@SLP(C) No.18818/2018)

O R D E RCivil Appeal No.803/2020 (@SLP(C) No(s).18818/2018), Civil Appeal Nos.806-807/2020 (@SLP(C) Nos.18819-18820/2018), Civil Appeal Nos.808-809/2020 (@SLP(C) Nos.20533-20534/2018) and Civil Appeal Nos.810/2020 (@SLP(C) No.28159/2018)

Delay condoned.

Leave granted.

These appeals have been preferred against the impugned judgment(s) and order(s) dated 28.03.2017 passed by the Madras High Court in CMA (MD) No.583/2016, Writ Appeal (MD) Nos.1133 and 1143 of 2016, CMA(MD) Nos.669 and 670 of 2016, and CMA(MD) No.819 whereby the High Court set aside *inter alia* the order dated 13.05.2016 removing all the eight hereditary trustees from the office of Arulmigu Pandi Muneeswarar Temple in Tamil Nadu. However,

after directing that the order removing all the trustees is set aside, the High Court has proceeded to continue the appointment of the Executive Officer of the temple as a Fit person. Admittedly, no notice has been issued to the hereditary trustees calling upon them to show cause why a fit person should not be appointed.

This appointment of an executive officer as a fit person even though the order removing the trustees is set aside, would not have been of much consequence but for the fact that it results in ignoring the salutary provisions contained in section 54 of the Hindu Religious and Charitable Endowments Act, 1959 (hereinafter referred to as the 'Act'). Section 54 of the Act which has been ignored reads thus follows :

"54. Filling up of vacancies in the office 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.
- (2) When a temporary vacancy occurs in such an office by reason of the 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 respective 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 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 the 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 (Tamil Nadu Act I of 1902)."

The clear requirement of the above section is that where vacancy occurs whether temporary or permanent, it is necessary to consider whether the persons, next in line of succession, can be appointed to succeed as trustee(s) before an outsider is appointed as Executive Officer or fit person, as the case may be.

Mr. Balaji Srinivasan, learned Additional Advocate General appearing for the respondent - State of Tamil Nadu,

fairly states that the purpose of section 54 of the Act is very clear and he also accepts the fact that non-issuance of the notice has disabled the trustees from pointing out who could be placed in charge of the trust.

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 :

- (1) Mrs. R. Lakshmi W/o Mr. Raja Poosari
- (2) Mr. Ponnu Pandian S/o Mr. Sivaji Poosari
- (3) Mr. Jayaveera Pandi S/o Mr. V.K. Pandian
- (4) Mr. Rajesh Pandi S/o Mr. Ramesh Poosari
- (5) Mr. Rishi Pandi S/o Mr. Pandiarajan

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.

These appeals are disposed of in the above terms.

Civil Appeal Nos.804-805/2020 (@SLP(C) Nos.28484-28485/2017) and Civil Appeal Nos.811-812/2020 (@SLP(C) Nos.30698-30699/2018)

Leave granted.

In view of the order passed today in Civil Appeal No.803/2020 (@SLP(C) No.18818/2018) and connected matters, we consider it appropriate to set aside the Office Memo dated 16.03.2017 regarding the plate collection.

Order accordingly.

The appeals are disposed of in the above terms.

CONTEMPT PETITION (C) No.2094/2018 in Civil Appeal Nos.808-809/2020 (@SLP(C) NOS.20533-20534/2018) AND CONTEMPT PETITION (C) No.434/2019 in Civil Appeal No.803/2020 (@SLP(C) No.18818/2018)

In view of the order passed today in Civil Appeal No.803/2020 (@SLP(C) No.18818/2018) and connected matters, the contempt petitions are disposed of.

.....CJI
[S.A. BOBDE]

.....J
[B.R. GAVAI]

.....J
[SURYA KANT]

NEW DELHI;
JANUARY 29, 2020.

REVISÉ
 ITEM NO.5 COURT NO.1 SECTION XII

S U P R E M E C O U R T O F I N D I A
 RECORD OF PROCEEDINGS

SPECIAL LEAVE PETITION (CIVIL) No(s).18818/2018

(Arising out of impugned final judgment and order dated 28-03-2017 in CMA (MD) No.583/2016 passed by the High Court Of Delhi At New Delhi)

SARAVANA PANDIAN

Appellant(s)

VERSUS

GOVT. OF TAMIL NADU & ORS.

Respondent(s)

(With IA No. 73979/2018 - CONDONATION OF DELAY IN FILING AND IA No. 73980/2018 - CONDONATION OF DELAY IN REILING / CURING THE DEFECTS AND IA No. 95134/2018 - EXEMPTION FROM FILING O.T. AND IA No. 89742/2018 - EXEMPTION FROM FILING O.T. AND IA No. 89739/2018 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES AND IA No. 95132/2018 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

WITH

SLP(C) Nos.28484-28485/2017 (XII)

(With IA No. 143980/2019 - APPLICATION FOR MODIFICATION OF PARTY DETAILS / CHALLENGED JUDGEMENT DETAILS AND IA No. 89890/2017 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT AND IA No. 89891/2017 - EXEMPTION FROM FILING O.T. AND IA No. 61029/2018 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

SLP(C) Nos.18819-18820/2018 (XII)

(FOR FOR CONDONATION OF DELAY IN FILING ON IA 85646/2018 AND FOR EXEMPTION FROM FILING O.T. ON IA 85648/2018 AND FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA 95141/2018 FOR EXEMPTION FROM FILING O.T. ON IA 95142/2018)

SLP(C) Nos.20533-20534/2018 (XII)

(FOR ADMISSION and I.R. and IA No.98454/2018-CONDONATION OF DELAY IN FILING AND IA No.98456/2018-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT AND IA No. 104317/2018 - EXEMPTION FROM FILING O.T. AND IA No. 104315/2018 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

SLP(C) Nos.30698-30699/2018 (XII)

(FOR ADMISSION and I.R. AND IA No. 159253/2018 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

CONTEMPT PETITION (C) No.2094/2018 in SLP(C) NOS.20533-20534/2018 (XII) (FOR ADMISSION)

SLP(C) No.28159/2018 (XII)
(FOR FOR EXEMPTION FROM FILING O.T. ON IA 151120/2018 AND FOR
PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA
151129/2018)

CONTEMPT PETITION (C) No.434/2019 in SLP(C) No.18818/2018 (XII)
(WITH IA No.44263/2019 - EXEMPTION FROM FILING O.T.)

Date : 29-01-2020 These matters were called on for hearing today.

CORAM :
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE SURYA KANT

Counsel for the parties

Mr. P.S. Narasimha, Sr. Adv.
Ms. J. Ananthavalli, Adv.
Mr. M. Gireesh Kumar, Adv.
Mr. Ankur S. Kulkarni, AOR
Mr. S. Parthasarathi, Adv.

Mrs. V. Mohana, Sr. Adv.
Mr. Guru Krishna Kumar, Sr. Adv.
Mr. Nithin Sarvanan, Adv.
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Ms. Arunima Singh, Adv.
Mr. C. Kannan, Adv.
Ms. Shreya, Adv.
Ms. Ankita Sharma, Adv.
Mr. Karunakar Mahalik, AOR

Mr. Sidharth Luthra, Sr. Adv.
Mr. Manoj Kumar N., Adv.
Ms. Mehaak Jaggi, Adv.
Mr. Ankit Dhavan, Adv.
Mr. Aryan Dev, Adv.
Mr. Nithin Saravanan, Adv.
Ms. Arunima Singh, Adv.
Mr. Karunakar Mahalik, AOR

Mr. Basava S Prabhu Patil, Sr. Adv.
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Mr. Vinodh Kanna B., AOR
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Ms. Purbitaa Mitra, Adv.
Ms. A. Jaswanthi, adv.

Mr. Balaji Srinivasan, AAG
Mr. K. V. Vijayakumar, AOR
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Ms. A. Jaswanthi, adv.

UPON hearing the counsel the Court made the following
O R D E R

Delay condoned.

Leave granted.

These appeals are disposed of in terms of the signed order.

As a sequel to the above, pending interlocutory applications,
if any, stand disposed of.

CONTEMPT PETITION (C) No.2094/2018 in Civil Appeal Nos.808-809/2020 (@SLP(C) NOS.20533-20534/2018) AND CONTEMPT PETITION (C) No.434/2019 in Civil Appeal No.803/2020 (@SLP(C) No.18818/2018)

In view of the order passed today in Civil Appeal No.803/2020 (@SLP(C) No.18818/2018) and connected matters, the contempt petitions are disposed of.

(SANJAY KUMAR-II)
AR-Cum-PS
(Correction made in the signed order already placed on the file)

(INDU KUMARI POKHRIYAL)
ASSISTANT REGISTRAR

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.803 OF 2020
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- (8) 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 respective 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.

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Order accordingly.

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NEW DELHI;
JANUARY 29, 2020.

ITEM NO.5

COURT NO.1

SECTION XII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SPECIAL LEAVE PETITION (CIVIL) No(s).18818/2018

(Arising out of impugned final judgment and order dated 28-03-2017 in CMA (MD) No.583/2016 passed by the High Court Of Delhi At New Delhi)

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Appellant(s)

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HON'BLE MR. JUSTICE B.R. GAVAI
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In view of the order passed today in Civil Appeal No.803/2020 (@SLP(C) No.18818/2018) and connected matters, the contempt petitions are disposed of.

(SANJAY KUMAR-II)
AR-Cum-PS

(INDU KUMARI POKHRIYAL)
ASSISTANT REGISTRAR

(Signed Order is placed on the file)