
(1989) 12 MAD CK 0003
In the Madras High Court
Case No : Writ Petition No. 1 13291 of 1989

Prem Anand

APPELLANT

Vs

The Commissioner, Hindu Religious and Charitable
Endowments, Madras and The Deputy Commissioner, H.R.
and C.E., Madras

RESPONDENT

Date of Decision : 21-12-1989

Acts Referred:

Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 — Section 54

Citation : (1989) 12 MAD CK 0003

Hon'ble Judges : Srinivasan, J

Bench : Single Bench

Advocate : V. Manohar, for the Appellant; A. Fathimanathan, Govt. Advocate, for the Respondent

Judgement

Srinivasan, J.—The petitioner's father was hereditary trustee of Sri Vengeeswarar Devasthanam., Proceedings were initiated against him and

he was removed from office. The petitioner being his eldest son, claimed that he was entitled to be the next hereditary trustee as per the provisions

of S. 54 of the Tamil Nadu Hindu Religious and Charitable Endowments Act. A fit person had been appointed earlier when the proceedings were

pending as against the petitioner's father. The petitioner had applied to the first respondent that he being the person entitled to succeed his father as

hereditary trustee, should be appointed and no fit person should be appointed in that place. The first respondent passed an order on 15-3-1989 to

the effect that the appointment of fit person was only a temporary measure which would not impinge on the right of the petitioner to succeed when

the permanent vacancy arises under S. 54(1) of the Act. The petitioner was, therefore, requested to wait till the enquiry against his father was over.

After the enquiry was over and the petitioner's father was removed by order of the first respondent on 24-7-1989, the petitioner sought for a

direction from the first respondent to the fit person to hand over charge to the petitioner herein as the next hereditary trustee. The petitioner

received an order from the first respondent on 22-8-1989 that he should apply to the Deputy Commissioner for appropriate orders under S. 54(1)

of the Act as the Deputy Commissioner is the competent authority. The petitioner sent a reply through his advocate on 1-9-1989 inviting the

attention of the first respondent to the position that there is no necessity for making any application for the succeeding hereditary trustee and that

succession is automatic as recognised by the provisions of the Act. According to the petitioner, there is no reply so far to the said communication.

2. Under S. 54 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 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. There is no necessity,

whatever, for the next hereditary trustee to make an application for being appointed under the Act. In this case, the petitioner had to approach the

first respondent, because a fit person, was already in charge of the administration of the temple. As the first respondent had appointed the fit

person, the petitioner sought a direction to the fit person from the first respondent to hand over charge to the petitioner as he has become the

hereditary trustee. The first respondent ought to have issued such a direction. On the other hand, the first respondent directed the petitioner to go

to the Deputy Commissioner which is unwarranted by the provisions of the Act.

3. In the circumstances, a writ of mandamus will issue directing the first respondent to give a direction to the fit person of the temple to hand over

charge to the petitioner who is the next hereditary trustee. As there is no dispute at present that the petitioner is the eldest son of the prior trustee,

this writ of mandamus is issued to the first respondent as indicated above. The first respondent shall issue the direction to the fit person on or

before 25-1-1990. The writ petition is allowed on the above terms. There will no order as to costs.