



W.P.(MD) No.10233 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.04.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.10233 of 2023

and

W.M.P.(MD) Nos.9087 and 9088 of 2023

1.K.A.Shanmugavel

2.M.Senthilnathan

.. Petitioners

Vs.

1.The Joint Commissioner,
Hindu Religious and Charitable Endowment Board,
Tirunelveli.

2.The Executive Officer,
Arulmigu Thiripurantheeswar Thirukovil,
Palaymkottai.

3.The Inspector,
Arulmigu Thiripurantheeswar Thirukovil,
Palayamkottai.

4.The Thakkar,
Arulmigu Thiripurantheeswar Thirukovil,
Palayamkottai.

.. Respondents



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Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus directing the respondents herein to consider the petitioner's representation dated 18.04.2023 and pass appropriate orders within the time stipulated by this Court, permitting the petitioners being hereditary trustees to conduct Theppotsavam Mandagapadi Kattalai scheduled on 04.05.2023 pertaining to Arulmigu Thiripurantheeswar Thirukovil, Palayamkottai, Tirunelveli District.

For Petitioners	:	Mr.V.Meenakshisundaram
For R1	:	Mr.P.Subbaraj Special Government Pleader
For RR2 & 3	:	Mr.H.Arumugam

ORDER

This writ petition has been filed for the issue of a Writ of Mandamus directing the respondents herein to consider the petitioner's representation dated 18.04.2023 and pass appropriate orders within the



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time stipulated by this Court, permitting the petitioners being hereditary trustees to conduct Theppotsavam Mandagapadi Kattalai scheduled on 04.05.2023 pertaining to Arulmigu Thiripurantheeswar Thirukovil, Palayamkottai, Tirunelveli District.

2. It is necessary to briefly touch upon the facts preceding the filing of this writ petition. This writ petition is moved by the petitioners claiming to be the Hereditary Trustees, who have right to conduct Theppotsavam Mandagapadi Kattalai pertaining to Arulmigu Thiripurantheeswar Thirukovil, Palayamkottai, Tirunelveli District.

3. The petitioners would submit that one K.Ayyathaiyal Nayagi Ammal had held the office of the hereditaryship of this Kattalai, which was conducted along with the Thaipooasa Mandagappadi at Arulmigu Thiripurantheeswar Thirukovil. The hereditaryship of the said K.Ayyathaiyal Nayagi Ammal was confirmed by an order dated 02.06.1998 passed in O.A.No.6 of 1990 by the Joint Commissioner, Hindu Religious and Charitable Endowment Department, Tirunelveli.



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Except the said K.Ayyathaiyal Nayagi Ammal, no one is entitled or has a right, title or interest to this Kattalai. She passed away on 11.06.2001 and the petitioners along with their sister Kumuthavalli inherited the trusteeship of the Theppotsavam Mandagapadi. The petitioners' sister Kumuthavalli passed away on 01.06.2010 and her children inherited her trusteeship along with her husband Muthuveerappan. Muthuveerappan also passed away on 26.04.2014. Therefore, this Kattalai now vests with the petitioners. It is also the contention of the petitioners that the petitioners' family are the Hereditary Trustees of Kattalais attached to different temples in Tirunelveli. Apart from Theppotsavam Mandagapadi, there are other Kattalais which vest with the petitioners' family.

4. The petitioners would further submit that they were not able to conduct the Theppotsavam festival for the past few years as the tank had started drying and there were encroachments there upon. The petitioners would submit that thereafter, the Theppakulam was redeemed from the encroachers and renovated in 2019-2021 and therefore, the petitioners



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were keen on conducting Theppotsavam Mandagapadi as the Hereditary Trustees. It was at this juncture that the petitioners were served with pamphlets around March, 2021 informing them about the arrangements for conducting Kumbhabishekam to the Neerazhi Mandapam in the said Theppakulam and to conduct the Theppotsavam Mandagapadi. Immediately the first petitioner as one of the Trustees of Theppotsavam Mandagapadi sent a letter on 30.03.2021 to the respondents explaining them about their rights in conducting Theppotsavam Mandagapadi. The second respondent sent a reply on 04.05.2021 stating that this Kattalai was stopped due to COVID-19 protocol. The petitioners had also addressed another letter to the second respondent stating that they cannot restrain their right of worship. A reply dated 14.09.2021 was received from the second respondent wherein she had stated that she would allow the Sivanadiyargal Thirukottam alone to conduct the Theppotsavam Mandagapadi after the end of COVID-19 protocol, which is illegal and high-handed. Therefore, the petitioners were constrained to file a suit in O.S.No.440 of 2021 before the I-Additional District Munsif's Court, Tirunelveli seeking a permanent injunction, restraining the respondents



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from interfering with their right to conduct Theppotsavam Mandagapadi pertaining to the Arulmigu Thiripurantheeswar Thirukovil. An interlocutory application in I.A.No.1 of 2021 was also moved in the said suit for a temporary injunction injuncting the respondents from conducting the Theppotsavam Mandagapadi. The second respondent was also a party to the suit. She had filed a separate written statement. The Sivanadiyargal Thirukootam had also been arrayed as party. Ultimately, after hearing both the parties, the learned I-Additional District Munsif was pleased to grant interim injunction. Despite this interim injunction staring at their face, the respondents are proceeding to hold the Theppotsavam Mandagapadi excluding the petitioners and they have taken over the same. Therefore, the petitioners had sent a legal notice dated 12.12.2022 putting the respondents on notice that they were in contempt of orders of the civil Court. Meanwhile, the second respondent/Executive Officer by his proceedings dated 04.05.2009 called upon the Trustees to handover the lands, since there were objections from the Kattalaidhars and therefore, a writ petition in W.P.(MD) No.9323 of 2009 came to be filed on the file of this Court which was disposed of on



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16.12.2022 directing the Joint Commissioner to hear the objections and pass orders.

5. At this juncture, without any right whatsoever to the Theppotsavam Mandagapadi, the second respondent is attempting to conduct the festival and therefore, the petitioners are constrained to approach this Court, since the pamphlets are being circulated in total disregard to the orders of the civil Court in I.A.No.1 of 2021 in O.S.No. 440 of 2021.

6. Heard the learned counsel appearing for the parties.

7. In the interlocutory application in I.A.No.1 of 2021 in O.S.No. 440 of 2021, the I-Additional District Munsif, Tirunelveli has passed the following order:

□மேலும் இரு தரப்பினரும் ஏற்றுக்கொண்டபடி
மேற்கண்ட திருவிழாவானது சுமார் 100 வருடங்களுக்கு
பிறகு தான் தற்சமயம் தான் நடைபெறுகிறது
என்பதாலும், மனுதாரர்களுக்கு ம.சா.ஆ.1-ன் படி
தெப்பஉற்சவ மண்டகப்படியில் பரம்பரை



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அறங்காவலர்களாக உரிமை
கிடைக்கப்பெற்று இருப்பதாலும், மனுதாரர்கள் கோரிய
பரிகாரங்கள் கிடைக்கத்தக்கது என்று
தீர்மானிக்கப்படுகிறது. எனவே மனுதார்களின்
தெப்பஉற்சவ மண்டகப்படி வழிப்பாட்டு உரிமையை 1
முதல் 3 எதிர்மனுதாரர்கள் இடையூறு செய்யக்கூடாது
என வழக்கு முடியும் வரை தற்காலிக
உறுத்துக்கட்டளை பரிகாரம் வழங்கப்படுகிறது
என இந்நீதிமன்றம் முடிவு செய்கிறது.□

8. Respondents 1 to 3 therein are respondents 2 and 4 herein and one N.Thiagarajan represented the Sivanadiyargal Kootam. Therefore, in the light of the orders of the civil Court, the respondents particularly the second respondent has no authority to take over this Kattalai. Therefore, this Writ petition has to necessarily be allowed, as the order of the civil Court in I.A.No.1 of 2021 in O.S.No.440 of 201 has not been challenged by any one of the parties and the same is still in force. Therefore, although this writ petition is filed for a mandamus directing the respondents to consider the petitioners' representation dated 18.04.2023, however taking into account the fact that the orders of the civil Court are not challenged and the respondents are acting against the orders passed



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by the civil Court quoted supra, this Court allows this Writ Petition permitting the petitioners to conduct the Theppotsavam Mandagapadi Kattalai scheduled on 04.05.2023 pertaining to Arulmigu Thiripurantheeswar Thirukovil, Palayamkottai, Tirunelveli District. No costs. Consequently, connected miscellaneous petitions are closed.

27.04.2023

NCC : Yes/No

Index : Yes/No

Internet : Yes

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To

The Joint Commissioner,
Hindu Religious and Charitable Endowment Board,
Tirunelveli.



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P.T.ASHA, J.

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