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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.09.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.19477 of 2023

and

W.M.P(MD)Nos.16105, 17148 & 17182 of 2023

S.Senthil @ Senthilkumar

... Petitioner

Vs.

1. The Joint Commissioner,
HR & CE Department,
Tiruppur.
2. The Assistant Commissioner,
HR & CE Department,
Karur.
3. The Fit Person,
Arulmigu Sri Sithanadha Samedha Angala
Parameshwari Temple,
Varavanai,
Kadavur Taluk,
Karur District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 3rd respondent, dated 17.03.2023 in respect of removal of asbestos sheet in S.F.No.888, and the impugned order passed by the 3rd respondent dated Nil, reference Nil, prohibiting the petitioner from doing daily pooja in Arulmigu Sri Sithanadha Samedha Angala Parameshwari Temple, Varavanadi, Kadavur Taluk, Karur District and the impugned order passed by the 3rd respondent, dated 17.03.2023 not to enter the temple and the impugned order of the 1st respondent in Na.Ka.No.1697/2023/A3, dated 12.04.2023, and quash the same and consequently forbear the respondents from interfering with the petitioners Poojariship right at Arulmigu Sri Sithanadha Samedha Angala Parameshwari Temple, Varavanadi, Kadavur Taluk, Karur District.

[Prayer amended vide Order of this Court, dated 05.09.2023]

For Petitioner : Mr.S.Gokulraj
For Respondents : Mr.S.Kameswaran
Government Advocate, for R-1 & R-2

Mr.V.Chandrasekar,
Government Advocate, for R-3

ORDER

The writ petition was filed for Certiorarified Mandamus to quash the impugned order dated 17.03.2023 and another impugned order dated NIL.



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Pending writ petition the respondents had passed an order dated 12.04.2023. Hence the petitioner filed amendment of prayer and the same was allowed. Through the impugned order dated 17.03.2023 the respondents have directed the petitioner to remove the asbestos sheet in S.F.No.888, through the impugned order dated NIL the respondents have prohibited the petitioner from doing pooja and through the impugned order dated 12.04.2023 the 1st respondent has prohibited the petitioner from entering the temple. The petitioner is seeking to quash all the three impugned orders with a consequential relief not to interfere in his poojari rights at Arulmigu Sri Sithanadha Samedha Angala Parameshwari Temple, Varavanadi, Kadavur Taluk, Karur District.

2. Heard Mr.S.Gokulraj, the Learned counsel appearing for the petitioner, Mr.S.Kameswaran, the Learned Government Advocate appearing for the respondents 1 & 2, Mr.V.Chandrasekar, the Learned Advocate appearing for the 3rd respondent and Mr.Ramsundar Vijayaraj, the Learned Counsel appearing for the intervenor and perused the material documents available on record.



3. The contention of the petitioner is that Arulmigu Sri Sithanadha Samedha Angala Parameshwari Temple, Varavanadi, Kadavur Taluk, Karur District is a family temple belonging to 24 Manai Telugu Chettiar Community people established by the ancestors of two families (Kulam i.e. Soopiyavar and Paluvithiyavar) and the petitioner's forefathers had been doing the pooja at the temple. Following the same the petitioner was doing the Pooja for the past five years and he belongs to Paluvithiyavar Five Kilavan Makkal Poosari Vagayara. In the year 1993, a Trust by name "Sri Varavanai Angala Parameshwari Aalaya Arakattalai" has been formed for the administration of the said Angala Parameshwari Temple. Since some dispute arose between themselves a "Fit Person" was appointed on 13.06.2013. Challenging the same W.P(MD)No.10487 of 2013 was filed and this Court vide order dated 16.07.2013 allowed the writ petition since the fit person was appointed by violating the principles of natural justice.

4. The 2nd respondent again appointed a Fit person, vide order, dated



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19.02.2014. The contention of the petitioner is that even after the appointment of the Fit Person, the regular pooja was performed by the persons belonging to Paluvithiyavar Five Kilavan Makkal Poosari Vagayara. While that being so, a writ petition in W.P.(MD)No.575 of 2016 was filed by one P.K.N.Arumugam inter alia praying for a direction to the official respondents to appoint an Archagar to conduct the Maha Sivarathiri Special Pooja at the temple and the same was allowed on 11.01.2016. Aggrieved over the same the appellants / third parties had filed W.A.(MD)No.364 of 2014 and a consent order was passed by this Court, by appointing a person not belonging to any group as Archagar to conduct the Maha Sivarathiri Special Poojai. And the said appointment is for that year alone i.e. for the Sivarathiri Festival on 07.03.2016 and 08.03.2016. Thereafter resolving the disputes between two groups, the Trust has unanimously appointed five persons namely C.Angusamy, M.P.Kathiresan, C.Karthikeyan, A.Pandian and the petitioner as Poojaries for conducting Sivarathiri Special Poojai scheduled to be held on 18.02.2023. A resolution, dated 07.01.2022 was forwarded to the respondents. The said C.Angusamy has filed W.P.(MD)No.2701 of 2023 seeking direction to the respondents to permit the petitioner and other four persons



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appointed by the Sri Varavanai Angala Parameshwari Aalaya Arakattalai, through resolution, dated 07.01.2022. This Court vide order, dated 13.02.2023, directed the respondents to issue notice to all the parties to conduct enquiry.

5. The contention of the petitioner is that the respondents have violated the order passed by this Court and has never issued any notice to the petitioner or to any other parties. The respondents have passed the impugned order, thereby the petitioner's Poojariship right was declined and the petitioner was directed to vacate from the said place and the petitioner was directed to file an appeal before the Joint Commissioner. The petitioner is tracing his right to administer the temple along with Poojariship right by stating that his grandfather namely Subban Chettiar, who was doing pooja. The said Subban Chettiar is having five sons, namely (i) Kondan Chettiar (ii) Paraman Chettiar (iii) Sithan Chettiar (iv) Pethan Chettiar and (v) Maruthai Chettiar. The said C.Angu Swamy is grandson from the Sithan Chettiar vagayara. The petitioner is Maruthai Chettiar vagayara and claiming right over Poojariship.



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6. The 3rd respondent had filed counter stating that the writ petition is not maintainable and the petitioner is having alternative remedy. The petitioner is self-styled poojari and his rights are not recognized. The fit person was appointed in order to protect the temple and its properties. The petitioner and the rival groups had not challenged the appointment of two poojaris based on the order of the Hon'ble Division and the said two poojaris are serving until today. The rights of the rival groups that the temple was established by 24 Manai Telugu Community was not recognized by any authority or forum. Hence the petitioner is not having any right, hence he is directed to vacate the temple land and prohibited from entering the temple. Further the petitioner embezzled funds from the temple and hence a notice dated 27.01.2023 was issued, the petitioner had submitted reply dated 03.02.2023. In the said reply the petitioner has not claimed that he is the poojari of the temple and the same would state the root of the issue. Based on the reply the petitioner is restrained from entering the temple. Therefore, the third respondent prayed to dismiss the writ petition.



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7. The claim of the petitioner is vehemently opposed by the above referred P.K.N.Arumugam, who had filed the W.P.(MD)No.575 of 2016. The said P.K.N.Arumugam has filed impleading petition along with affidavit in W.M.P. (MD)No. 17148 of 2023, wherein he had stated in the affidavit that he is donor of the temple, constructing temple premises and doing welfare activities of the temple. Also claimed that he is interested party. The said intervener vehemently objected to the petitioner's Poojariship right. The main contention of the said intervener is that the petitioner and other poojaris are misappropriating the temple money, the temple is public temple and the said family is not having any pre-existing poojariship right.

8. It is seen that the said intervenor had filed W.P.(MD)No.575 of 2016. Admittedly the said writ petition is filed without impleading any person who are claiming rights of administration along with poojariship rights and the said order was passed behind the back of the really interested parties. This had necessitated to file writ appeal as “third party writ appeal” by the writ appellants



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namely, G.Karthikeyan, C.Angusamy, P.Karthikeyan and A.Pandian. It is also seen that the writ appeal was allowed based on the consent of all parties to appoint archaka for the Sivarathiri Festival which was conducted on 07.03.2016 and 08.03.2016. When the writ appeal order had specifically directed to appoint poojari for the festival on 07.03.2016 and 08.03.2016 alone, therefore, this Court is of the considered opinion that the said order cannot be cited for the subsequent years and the deny the poojari rights of the petitioner.

9. Interestingly in the said writ petition in W.P.(MD)No.575 of 2016, the said P.K.N.Arumugam had stated that the temple belong to his ancestors and their community. But in the present writ petition he had not stated so. But he claims that he is interested in the temple, he is a donor to the temple, he is doing constructions activity and doing other welfare activities to the temple. The relevant portion from W.P.(MD)No.575 of 2016 is extracted hereunder:

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“3. According, to the petitioner, Arulmighu Sri Sithantha Sametha Angala Parameswari Thirukoil, Varavanai, Kadavar, Karur District is the temple, which has



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been established and worshiped by their ancestors and their community people. By an order dated 09.04.2013, in S.M.R. No.1 of 2008, the 1st respondent passed an order under Section 64(4) of the Tamil Nadu Hindu Religious Charitable and Endowments Act, 1959 setting aside the order passed in O.A.No.6 of 1982 and declared the temple as public temple under Section 6(2) of the Act. The 2nd respondent by order dated 19.02.2014, appointed a Thakkar under Section 49(1) of the said Act. Further, according to the petitioner, during 2014 some people belonging to their community prevented the respondents from entering and placing Hundials in the Temple and at the intervention of the police, the 4th respondent was able to conduct the Mahasivarathiri Poojas peacefully. Based on the complaint of the fourth respondent, a case in Crime No.36 of 2014 dated 20.03.2014, on the file of the Sinthamani Police Station under Section 107 Cr.P.C. was also registered and the proceedings under Section 107 Cr.P.C. are still pending. During 2015, Mahasivarathiri was conducted with the help of the 4th respondent without any disturbance, as the police authorities have given protection.

4.The petitioner as an In-charge and Administrator of the Temple Construction Committee sent a representation on 26.10.2015, to the third respondent, seeking permission



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to conduct the Mahasivarathiri festival on 07.03.2016 and 08.03.2016 by the Construction Committee with police protection by the 5th respondent. The 3rd respondent sent a reply dated 30.11.2015 stating that in the peace meeting held by the respondents difference of opinion prevailed among the community people in respect of construction of temple and therefore, Mahasivarathiri would be conducted by the 4th respondent as conducted during the previous year. However, several lakhs of rupees were collected as Thalaikattu Vari and donation and are being swindled by unknown people. Hence, the petitioner has come forward with this petition to direct the respondents to appoint an Archakar to conduct the Mahasivarathiri festival at Arulmighu Sri Sithantha Sametha Angala Parameswari Thirukoil, Varavanai, Kadavar, Karur District on 07.03.2016 and 08.03.2016 and further to direct the 5th respondent to give adequate police protection for conducting the same.

5.The 4th respondent has drawn the attention of this Court to the facts that a Fit person was appointed as per the request of the petitioner and thereafter, there was a peace meeting and in that peace meeting it was decided that the Mahasivarathiri festival has to be performed by the officials as done in the previous year, since there is dispute between



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rival groups and there is a possibility of law and order problem.

6.The counsel for the petitioner submitted that third parties are collecting Thalaikattu Vari and donation for conducting Mahasivarathiri Festival and hence, an Archakar should be appointed to conduct the festival and adequate protection should be given for conducting the festival.

7.In reply the Additional Government Pleader submitted that one Palanichamy is the Archakar and he will conduct the Poojas.

8.The counsel for the petitioner submitted that the petitioner has got no objection for Mr.Palanichamy to continue as Archakar.

9.In respect of the allegations made by the petitioner with regard to misusing of funds and misappropriation of funds, it is open to the petitioner to make necessary complaint to the concerned authority and the concerned authority will have to consider the same in accordance with law. In respect of his other prayer for police protection, the police will have to interfere, if there is any law and order problem.

10.The Writ Petition is disposed of with the observation and direction. No costs. Consequently,



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connected Miscellaneous Petition is also closed.”

10. In the present writ petition while filing impleading petition the said P.K.N.Arumugam has stated as under:

“1. It is submitted that I am an interested person in the Arulmigu Sri Sithanadha Samedha Angala Parameshwari Temple, Varavanadi, Kadavur Taluk, Karur District.

14. It is submitted that I am the aggrieved person interested over the temple and donor of the temple constructing temple premises and doing the welfare activities of the temple, it is necessary to implead me in the above said writ petition in W.P. (MD)No.19477/2023”

Since the said P.K.N.Arumugam in the present writ petition has not claimed that the temple was established and worshiped by his ancestors and there is no genuineness on his part. When this Court raised a question whether he belongs to the said 24 Manai families, the said intervenor denied that he does not belong to the said family. Hence this Court is not inclined to entertain the impleading petition. But allowed to intervenor for a limited purpose. Further this Court is of the considered opinion that the donor cannot claim management of the temple.



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Under the guise of donation, the donor shows inclination as if he had purchased the temple. The attitude of the said P.K.N.Arumugam clearly shows he is interfering with the management of the temple. The said P.K.N.Arumugam cannot claim himself as donor and cannot usurp the management of the temple directly or indirectly. And this Court condemn such attitude and such persons cannot be entertained to file such litigation at all.

II. Further it is seen that the Deputy Commissioner of the HR&CE had declared that the temple will not come within the purview of HR&CE Act vide order dated 21.08.1992. But through Suo Moto petition in S.M.R.No.1 of 2008-D2, vide order dated 09.04.2013 it is held that if the people of Suppiyavar and Pulivithiyavar Sect by 24 Mani Telugu Chetty claims right over the temple, then they ought to have filed petition under section 64(1) to formulate a scheme, but they have not filed any such petition. Moreover, the temple is not having any Hundial and Vahanam but the temple is having small Gopuram and Sannadhi. It is not necessary that all features should be available to declare the temple as public temple, if small Gopuram and Sannadhi is available then it will come under



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public temple, hence there is no need to have all features, hence the temple is declared as public temple. On perusing the said order this Court is of the considered opinion, since the petitioner's ancestors had not filed a petition to formulate a scheme the temple is taken by the HR&CE and declared as public temple. Therefore, this Court is of the considered opinion that the petitioner and other persons claiming under 24 Mani Telugu Chettiar Community have right to file a petition to formulate a scheme for managing the temple. Therefore, the petitioner and other persons coming under 24 Mani Telugu Chettiar Community is entitled to file a petition and rightly so they have filed a petition in O.A.No.9 of 2023 under section 64 (1) and enquiry notice dated 18.04.2023 is issued and the said petition is pending. If the scheme is framed then the issue among the 24 Mani Telugu Chettiar Community could be resolved. Before formulating the said scheme, the petitioner's rights cannot be declined simply because the said P.K.N.Arumugam has objected the petitioner's right of Poojariship.

12. It is seen that one C.Angusamy had filed a petition dated NIL seeking poojariship rights. The said P.K.N.Arumugam has filed a petition NIL



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objecting the claim of the said C.Angusamy and both are petitions were hearing together. This Court is at loss why a poojariship right petition filed by C.Angusamy be heard by giving audience to P.K.N.Arumugam, a person who claims himself as donor of the temple and how a right accrues to the said P.K.N.Arumugam as a donor. Hence this Court is of the conclusive opinion that P.K.N.Arumugam is totally spoiling the atmosphere of the temple and is creating trouble among the rival groups and he is acting with some hidden agenda. Interestingly the said C.Angusamy had not attended the hearing, but someone claiming to be the brother of C.Angusamy and the said brother name is also C.Angusamy had attended the hearing and the petition of the C.Angusamy was dismissed without any effective hearing to the real C.Angusamy. And this Court is of the considered opinion such order cannot be binding on the real C.Angusamy. The said order can never ever be binding on the writ petitioner. Therefore the impugned order dated 12.04.2023 is liable to be quashed and accordingly the same is quashed.

13. The 3rd respondent Fit Person has submitted that based on the



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order of the Hon'ble Division Bench two poojaris were appointed and the said poojaris are continuing as poojaris and the said appointment was not challenged, hence the petitioner cannot claim poojari rights. It is seen that the Hon'ble Division Bench has approved to appoint poojari for that year Mahasivarathiri function only which was scheduled on 07.03.2016 and 08.03.2016 and the relevant portion of the order is extracted hereunder:

" 10.In the light of the consensus arrived at by the parties to the lis, the Assistant Commissioner, Hindu Religious and Charitable Endowment Department, Karur, the 4th respondent herein, is directed to appoint a non-controversial and suitable person, not belonging to any one of the groups represented by the writ petitioner, as well as the appellants, before us, as Archakar and ensure the conduct of Maha Sivarathiri Festival on 07.03.2016 and 08.03.2016, without any problem."

14. Therefore, the claim of the Fit person as if the said two poojaris were appointed forever based on the order of the Division Bench is totally wrong. Consequently, the plea of the Fit person, the said appointment of two poojaris is not challenged by the petitioner and their vagayara cannot be sustained.



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15. As for as the impugned orders dated 17.03.2023 wherein the petitioner is restrained from entering the temple and the impugned order dated 17.03.2023 directing the petitioner to remove the asbestos sheet in S.F.No.888 is concerned and the impugned order dated Nil declining the rights of poojari in concerned, the 3rd respondent claims that the notice dated 27.01.2023 was issued. It is seen that the said notice is issued directing the petitioner to submit explanation for the allegation that he is illegally collecting donation for the temple and not treating the devotees properly. The petitioner had submitted explanation dated 03.02.2023 wherein it is stated that the said temple is their family temple, public are not allowed to pray in the said temple, only their blooded related and pangaligal would be allowed to visit the temple, hence there is no necessity to collect any donations thereby the petitioner had declined the allegation.

16. The petitioner further stated that when other people are not



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allowed to visit the temple then there is no chance of treating the devotees inappropriately. It is also stated in the reply that the only festival to the temple is Mahasivarathri and no other festival is conducted in the temple. Based on this reply the 3rd respondent had stated in the counter affidavit that the petitioner has not claimed that he is the poojari in the temple. When the 3rd respondent has not issued notice raising poojariship issue, this Court fails to understand how the petitioner would reply claiming poojari rights. The argument of the Fit person is absurd. Interestingly the petitioner had signed the reply as “poojari”. After receipt of such reply without any enquiry the three impugned orders are passed. As far as the impugned order dated NIL the petitioner is prohibited from doing pooja, but in the same impugned order the petitioner is directed to file appropriate petition claiming his poojariship rights and the same would be considered. Therefore, the respondents themselves had stated the same would be considered in this impugned order. But based on the impugned order dated 12.04.2023 the 1st respondent has prohibited the petitioner from entering the temple. The said order dated 12.04.2023 is passed against the said C.Angusamy and not against the petitioner. Hence based on the said order the petitioner cannot be prohibited from



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entering the temple.

17. Moreover, this Court has already held that the said order is not binding the said C.Angusamy itself since the real C.Angusamy had not appeared and the same cannot be made applicable to the petitioner. Since all the three impugned orders are passed violating the principles of natural justice, this Court is inclined to quash the same. Accordingly, the impugned order passed by the 3rd respondent, dated 17.03.2023 and the impugned order passed by the 3rd respondent, dated Nil, and the impugned order passed by the 1st respondent, dated 12.04.2023 are hereby quashed.

18. The 1st respondent has issued notice dated 18.04.2023 in O.A.No. 9 of 2023. The petitioner is directed to submit all the relevant records which he is possessing including the rights of his ancestors. Thereafter, the respondents shall conduct proper enquiry as per Section 110 of the HR & CE Act and pass orders. As an interim measure the said temple shall be managed by the Trust itself and the authorities shall allow the Trust to manage the temple.



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19. It is seen that the issue among the rival groups was resolved and the groups had formed a Trust and the Trustees had passed a resolution to appoint the writ petitioner Senthil @ Senthil Kumar, C.Angusamy, M.P.Kathiresan, C.Karthikeyan and A.Pandian as Poojaris. The said persons shall submit a joint application along with the resolution passed by the Trust and the respondents shall consider said application and allow the said poojaris to perform poojas until the scheme is formulated. Until this joint application is considered the said five persons shall do their poojari service.

20. With these observations and directions, this Writ Petition is allowed. The impleading petitions filed in W.M.P(MD)Nos.17148 & 17182 of 2023 are dismissed and W.M.P(MD)No.16105 of 2023 is closed. No Costs.

Index : Yes / No
Internet : Yes
NCC : Yes / No
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13.09.2023



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To

1. The Joint Commissioner,
HR & CE Department,
Tiruppur.
2. The Assistant Commissioner,
HR & CE Department,
Karur.
3. The Fit Person,
Arulmigu Sri Sithanadha Samedha Angala
Parameshwari Temple,
Varavanai,
Kadavur Taluk,
Karur District.



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S.SRIMATHY, J

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W.P.(MD)No.19477 of 2023

13.09.2023