



W.P.(MD)No.19669 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.08.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.19669 of 2023

P.K. Thoppulan Chettiar Ramanuja
Koodam Annadhana Trust,
Represented by its Managing Trustee,
K. Santhanagopalakrishnan,
No.12, Amma Mandapam Road,
Srirangam, Tiruchirappalli-620 006.

... Petitioner

VS.

1. The Commissioner,
Hindu Religious and Charitable
Endowments Department,
119, Uthamar Gandhi Road,
Thousand Lights West,
Nungambakkam, Chennai – 600 034.



WEB COPY



W.P.(MD)No.19669 of 2023

2. The Additional Commissioner(Enquiry),
Hindu Religious and Charitable
Endowments Department,
119, Uthamar Gandhi Road,
Thousand Lights West,
Nungambakkam, Chennai – 600 034.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call upon the impugned order culminated in ஓ.மு.எண். 1679.2021. ஆர்3/ dated 22/03/2021 on the file of the second respondent and to quash the same as illegal, null and void, ultravires, without jurisdiction and not binding on the petitioner and for Mandamus, to direct the first respondent to conduct an enquiry under Section 34 of the Tamil Nadu Act, XXII of 1959, on the complaint dated 15/01/2021 filed by the petitioner.and pass order on merits within a specified time frame that may be fixed by this Court.

For Petitioner : Mr.Shangar Murali
For Respondent : Mr.S.P.Maharajan
Special Government Pleader



WEB COPY



W.P.(MD)No.19669 of 2023

ORDER

This Writ Petition is filed for Certiorarified Mandamus to quash the impugned order, dated 22.03.2021, with consequential direction to conduct an enquiry under section 34 of the Tamil Nadu Act, XXII of 1959.

2. The contention of the petitioner is that the P.K. Thoppulan Chettiar Ramanuja Koodam Annadhana Trust is a Private Trust and it was not belonging to the Srirangam Temple at all. One Mr. Thoppulan Chettiyar had purchased a property in T.S.No.1438 to an extent of 29142 square feet property through registered sale deed dated 09.06.1887. Then he executed registered settlement deed dated 08.07.1901 and created a private endowment to distribute water and millet porridge during



WEB COPY



W.P.(MD)No.19669 of 2023

Chithirai Festival. The said charity was carried out from the money set out as “Mahimai” which he earned from his grainary business. It was also directed that if the Mahimai income is not sufficient then to perform the said charity from the family fund. Hence there is no hinderance in carryout the charity from the endowment of Mahimai income. The petitioner trust is carrying out the charity from time immemorial from the endowment. The said property was never ever endowed in favour of the Srirengam temple and it was only earmarked to distribute water and millet during the chritrai festival. The said property was leased out, but the lessee had defaulted, hence a suit was filed in O.S.No.706 of 1984 on the file o the Principal Sub Court for recovery of possession. There was threat of encroachment, moreover there is no income from the said vacant land. One Mr.Sahadevan obtained a bogus patta in his name and



WEB COPY



W.P.(MD)No.19669 of 2023

sold an extent of 13,700 square feet. Hence, in order to protect the land from the encroachers, the petitioner had filed a suit in O.S. No. 60 of 2004 on the file of the II Additional Subordinate Judge, Tiruchirappalli seeking permission to sell the property and the same was allowed in their favour. The respondents preferred an appeal in A.S. No. 118 of 2005 on the file of the Principal District Judge, Tiruchirappalli and the same was dismissed. Against the same, the respondents preferred S.A(MD)No. 438 of 2006 but the same was also dismissed. Then the respondents preferred SLP and Civil Appeal No. 9492 of 2019 before the Hon'ble Supreme Court and the same was allowed, vide order, dated 19.02.2020. However, it has been categorically held that the land is not belonging to Srirangam Temple. However, it is a private trust coming under the purview of the Hindu Religious and Charitable Endowments Act. The



WEB COPY



W.P.(MD)No.19669 of 2023

relevant portion is extracted hereunder:

“20. In the present case, the Deed of Settlement states that the charity is to be carried on for the benefit of the “devotees” of Sri Renganathaswamy who visit during the Chithirai Gajendra Moksham and Padi Eighteen festivals. The “devotees” as the ultimate beneficiaries of the charity are not an identifiable group of individuals, but constitute an uncertain and fluctuating body of persons. The “devotees” as a class of beneficiaries are not definitive. The respondent trust is a 19 public trust. The Deed of Settlement spells out that the charitable acts carried out by the settlor:

“during Chithirai Gajendra Motcham and padi 18 festival’s and for the benefit of the devotees during these festivals has been erecting water shed and distributing millet pooridge for three days”

The activities of the first respondent trust have a connection with Chithirai Gajendra Moksham and Padi Eighteen festivals and the charity is to be carried on for the benefit of the “devotees” of Sri Renganathaswamy sanctum. The festivals are Hindu religious festivals and the use of the expression “devotees” indicates that there exists a direct nexus and association between the public charity described in the Deed of Settlement and the Hindu religious festivals. Reference to “devotees” in the Deed of Settlement also indicates that the endowment is not of a secular nature. The charity which is described in the Deed of Settlement



WEB COPY



W.P.(MD)No.19669 of 2023

is a public charity associated with a Hindu religious festival. The charity is a “religious charity” under Section 6(16). Applying the reasoning set out in M J Thulasiraman to the facts of the present case, where money (or property) is endowed for the performance of a religious charity, a “specific endowment” as defined in Section 6(19) is created. Therefore, the first respondent trust is a “specific endowment” under the Act of 1959.

*21. The appellant in the present case has asserted that there existed a specific endowment in its favour. **The Deed of Settlement reveals that even though there was no dedication of the suit property in the name of the appellant, Thoppulan Chettiar had dedicated the property for the purpose of carrying out the charity. The charity of offering services to devotees of Sri Renganathaswamy who visited during particular Hindu religious festivals was of a religious nature. DW 5, the Assistant Superintendent of the appellant temple, admitted during his cross examination that the appellant temple did not exercise control over the respondent trust and there is no dedication of the suit property in its favour. In these circumstances, it is evident that the Deed of Settlement did not create a specific endowment in favour of the appellant. However, as we have seen, the activities of the first respondent trust do satisfy the definition of a “religious charity” under the Act of 1959. Therefore, we note that the specific endowment created by the Deed of Settlement is not in favour of the appellant idol but an endowment to a religious charity.***



W.P.(MD)No.19669 of 2023

The Hon'ble Supreme Court has rendered a categorical finding that the endowment is not created to the Srirengam Temple and hence the Temple has no power to deal with the property. However, it is held that the endowment is a private trust and in such circumstances the HR&CE has power to consider the issue.

3. Now, the question arises whether the Joint Commissioner is empowered to pass an order. The Joint Commissioner has considered the case of the petitioner as per G.O.Ms.No.25 Tamil Development Charitable Institution and News (C1 3-1) Department dated 29.01.2008. The contention of the petitioner is that the said G.O.Ms.No.25 is applicable to the Public Religious Institutions, but not to the petitioner's



WEB COPY



W.P.(MD)No.19669 of 2023

Private Trust. According to the petitioner the Alienation of Trust Property Rules published in G.O.Ms.No.866 Revenue, dated 15.02.1960 is applicable to the petitioner Trust. As per the said Rules only Commissioner is empowered to pass orders. But the respondents refuted the applicability of the said Rules.

4. However, the Hon'ble Supreme Court has directed the respondent to consider the case of the petitioner and hence, the Commissioner ought to consider the case. Therefore, without going into the merits of the case this Court is directing the Commissioner to consider the case and pass an order including the applicability of G.O.Ms.No.866 Revenue, dated 15.02.1960 and G.O.Ms.No.25.



WEB COPY



W.P.(MD)No.19669 of 2023

5. For the reasons stated above, the impugned order is quashed and the Commissioner is directed to consider the case of the petitioner including the applicability of G.O.Ms.No.866 Revenue, dated 15.02.1960 and G.O.Ms.No.25 dated 29.01.2008 and the said exercise shall be completed within a period of three months from the date of the receipt of a copy of this order.

6. With the above said direction, the Writ Petition is disposed of.

There shall be no order as to costs.

Index : Yes / No

14.08.2023

Internet : Yes

NCC : Yes / No

Sml/Tmg

Note: Issue order copy on **16.08.2023**.



WEB COPY



W.P.(MD)No.19669 of 2023

To

1. The Commissioner,
Hindu Religious and Charitable Endowments Department,
119, Uthamar Gandhi Road,
Thousand Lights West,
Nungambakkam, Chennai – 600 034.
2. The Additional Commissioner(Enquiry),
Hindu Religious and Charitable Endowments Department,
119, Uthamar Gandhi Road,
Thousand Lights West,
Nungambakkam, Chennai – 600 034.



WEB COPY



W.P.(MD)No.19669 of 2023

S.SRIMATHY, J

Sml/Tmg

W.P.(MD)No.19669 of 2023

14.08.2023