



W.P. (MD) No. 25758 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.02.2023

C O R A M

THE HONOURABLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. (MD) No. 25758 of 2022

and

W.M.P. (MD) Nos. 19867 and 19869 of 2022

1.P.Rajendran

2.A.Karuppiah

3.P.Murugan

4.G.Kaliappan

5.P.Ayyanan Ambalam

6.G.Chinnasamy

7.M.Perumal

... Petitioners

Vs.

1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Chennai.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Dindigul.

3.The Executive Officer,
Arulmigu Vandikaruppanaswamy Temple,
Thangammappatty, Vendasandur Taluk,
Dindigul District.

4.Arulmigu Vandikaruppanaswamy Temple,



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Thangammapatty, Vendasandur Taluk,
Dindigul District,
Through its Hereditary Trustee,
A.Renganathan.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records relating to Order in O.A.No.50 of 2022 (07/2018 Joint Commissioner, Maadurai) dated 02.11.2022 on the file of the Joint Commissioner, Hindu Religious and Charitable Endowments Department, Dindigul, 2nd Respondent herein and quash the same and consequently direct the 2nd respondent to conduct the O.A.in accordance with law as directed by the 1st respondent in A.P.No.6 of 2021/D2.

For Petitioners : Mr. M.Ajmal Khan,
Senior Counsel for Mr. S.Siva Thilakar

For Respondents : Mr. P.Subbaraj
Special Government Pleader (for R1 & R2)

Mr. A.K.Baskarapandian (for R3)

Mr. Rahamathulla
for Ms. P.Kalaiyarasi Bharathi (for R4)

ORDER



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Heard Mr. M.Ajmal Khan, Learned Senior Counsel appearing for the Petitioners, Mr. P.Subbaraj, Learned Special Government Pleader appearing for the First and Second Respondents, Mr. A.K.Baskarapandian, Learned Counsel for the Third Respondent and Mr. Rahamathulla, Learned Counsel appearing for the Fourth Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioners had filed an application under Section 63(e) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (hereinafter referred to as 'the Act' for short) in O.A. No. 7 of 2018 before the Second Respondent for declaration that they are entitled to Abishekam, Deepam, Vibuthi, Alangaram etc. customary rights in the temple as per customary practice and usage, which was allowed by order dated 28.11.2020, against which the Fourth Respondent had filed an appeal under Section 69 of the Act in A.P. No. 6/2021/D2 before the First Respondent. After hearing the parties, the First Respondent by order dated 10.08.2022 passed the following order :-

“11. On hearing both sides arguments, the issue folded in a narrow compass whether the Appellants have derived such rights as per customary practice and usage or the claim to perform abishekam, arathanai, neivithieyam, showing



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deepam and distributing vibuthi is part of duties of ulthurai

servant. If it is part of the duties of ulthurai servant, it could not vest on the Respondents 3 to 9 herein hereditarily in view of abolition of hereditary poojariship on the pretext of honour as the Law would not permit a person to achieve a thing which he is not directly entitled to gain indirect means. Besides that there is a Statutory bar against the same. Since the above issue have not been decided by the Joint Commissioner and the authority straight away passed the order treating the right claimed by the Respondents 3 to 9 herein as the honour in terms of Section 63 of the Act without framing proper issue and answering to it. Accordingly, the impugned order suffers from infirmity and it is hereby set aside and the case is remanded back for conducting denova enquiry by framing following issues and answering it in accordance to Law and material evidence and give legal quietus to the dispute.

- (i) *What is the established custom and usage of the temple regarding the honor claimed by the 3 to 9 respondents?*



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- (ii) *Whether the Respondents 3 to 9 herein are poojaris of the temple?*
- (iii) *Whether the ancestors of Respondents 3 to 9 herein have performed pooja in the temple as Ulthurai servant of the temple?*
- (iv) *Whether the Respondents 3 to 9 herein have proved their genealogy as per Law of Succession and inheritance and as per Law of primogeniture? The right of poojamurai is devolved upon Respondents 3 to 9 herein from whom and how. From the person who holds it originally devolves from father to his son hereditary or by customary practice and usage.*
- (v) *Whether the Respondents 3 to 9 herein are entitled to perform poojariship service as per the established customs and usage of the temple or by Section 55(2) of the TN HR & CE Act?*

12. *The Joint Commissioner, Dindugal is hereby directed to conduct proceedings under Section 63(e) of the Act to decide the above issues by issuing due notice and affording opportunities to the Respondents 3 to 9 herein, the*



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appellants, Second Respondent and other person having interest in the affairs of the temple.

The Joint Commissioner is hereby directed to conduct enquiry as per rules by affording an opportunity of hearing to all the persons concerned and pass order within three months from the date of receipt of this order. As an interim arrangement since the order of stay granted in the above appeal at the first instance and continue till this day, poojamurai of the temple have been looked after by the temporary appointment made by the temple management, the arrangement shall continue by deputing person through the temple management for the time being till the disposal of the above original application by the Joint Commissioner, Dindugal and the Respondents 3 to 9 herein shall continue to cooperate with the present arrangement without creating any ruckus in the affairs of the temple and shall cooperate with the Joint Commissioner to conclude the proceeding within stipulated time.

The Appeal Petition is disposed of with above directions.”



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The Second Respondent to whom the matter had been remanded had re-registered the application filed by the Petitioners as O.A. No. 50 of 2022 and after hearing the parties, has dismissed the same by order dated 02.11.2022, which is assailed in this Writ Petition.

3. As already noticed, the First Respondent in the order dated 10.08.2022 in A.P. No. 6/2021/D2, had specifically required the Second Respondent to re-examine the matter with specific reference to the five issues framed in that order, but the Second Respondent in the impugned dated 02.11.2022 has not at all adverted to any of those aspects in the manner as directed by the First Respondent. In view of such flaw committed by the Second Respondent in the decision-making process, it is not possible to uphold the impugned order and the same has to be set aside.

4. In view of the foregoing discussion, the impugned order dated 02.11.2022 in O.A. No. 50 of 2022 passed by the Second Respondent is set aside and the said application is restored to file to determine the matter afresh, on hearing all the concerned parties strictly in terms of the order dated 10.08.2022 in A.P. No. 6/2021/D2 passed by the First Respondent, and the interim arrangement as provided in that order shall continue to be in force till



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final order passed in that application. Such exercise shall be completed by 30.09.2023 and report of compliance filed before the Registrar (Judicial) of this Court.

In the result, the Writ Petition is ordered on the aforesaid terms. Consequently, the connected Miscellaneous Petitions are closed. No costs.

02.02.2023

Index : Yes/No
NCC : Yes/No
Sm

Note : Issue order copy by 16.06.2023.

To

1. The Commissioner,
Hindu Religious and Charitable Endowments Department,
Chennai.
2. The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Madurai.
3. The Superintendent of Police,
Dindigul District, Dindigul.
4. The Inspector of Police,
Vadamadurai Police Station,
Vadamadurai, Dindigul District.



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5. The Executive Officer,
Arulmigu Vandikaruppanaswamy Temple,
Thangammapatty, Vendasandur Taluk,
Dindigul District. 4. Arulmigu Vandikaruppanaswamy Temple,
Thangammapatty, Vendasandur Taluk,
Dindigul District,
Through its Hereditary Trustee,
A. Renganathan.

Copy to

1. The Registrar (Judicial),
Madurai Bench of Madras High Court,
Madurai – 625023.
2. P. Rajendran,
S/o. Palani Ambalam,
Ayyalur, Kuppampatty,
Vendasandur Taluk,
Dindigul District.
3. A. Karuppiyah,
S/o. Ayyamperumal,
Ayyalur, Kuppampatty,
Vendasandur Taluk,
Dindigul District.
4. P. Murugan,
S/o. Palani Ambalam,
Ayyalur, Kuppampatty,
Vendasandur Taluk,
Dindigul District.
5. G. Kaliappan,
S/o. Ganesan,
Ayyalur, Kuppampatty,
Vendasandur Taluk,



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Dindigul District.

6. P.Ayyanan Ambalam,
S/o. Palani Ambalam,
Ayyalur, Kuppampatty,
Vedasandur Taluk,
Dindigul District.

7. G.Chinnasamy,
S/o. Ganesan,
Ayyalur, Kuppampatty,
Vedasandur Taluk,
Dindigul District.

8. M.Perumal,
S/o. Murugan,
Ayyalur, Kuppampatty,
Vedasandur Taluk,
Dindigul District.



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P.D.AUDIKEAVALU,J.

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