

W.P.(MD).No.1612 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 11.06.2024

CORAM:

**THE HON'BLE MR. JUSTICE R.SURESH KUMAR
AND
THE HON'BLE MR.JUSTICE G.ARUL MURUGAN**

W.P.(MD).No.1612 of 2016

Chinmaya.R.Somasundaram (Died)
State Joint General Secretary, VHP,
State Joint Convener of Temple and Mutts Defence Wing, VHP
District President - VHP,
No.4, Valmigi Street, S.S.Colony
Madurai - 625 016.

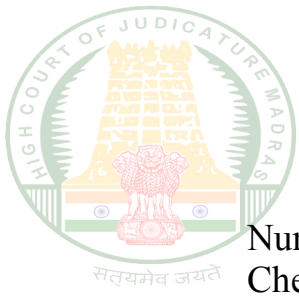
P1. M.Chandrasekaran
Tamil Nadu State Joint Secretary,
State Joint Convener of Temples and Mutts Defence Wing,
Madurai District President,
Vishwa Hindu Parishad,
No.4, Valmiki Street, S.S.Colony,
Madurai - 625 016.

.... Petitioner

(P1 is substituted vide court order
dated 11.01.2024 in W.M.P.(MD).No.14029 of 2017
in W.P.(MD).No.1612 of 2016 by DKKJ and MDIJ)

Vs.

1. The Commissioner
Madurai Corporation,
Madurai.
2. The Commissioner
Hindu Religious and Charitable Endowments,



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Nungambakkam High Road,
Chennai - 600 034.

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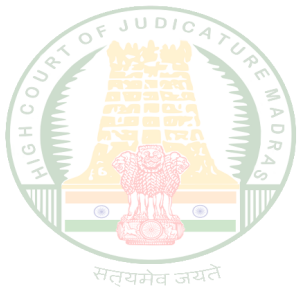
3. The Joint Commissioner
The Hindu Religious and Charitable Endowments,
No.1, West Chithirai Street,
Madurai - 625 001.
4. The Executive Officer
Arulmigu Meenakshmi Sundareswarar Temple,
Madurai - 625 001.
5. The Assistant Commissioner
The Hindu Religious and Charitable Endowments,
Jawans Bhavan, West Veli Street,
Madurai - 625 001.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, seeking to issue a writ of mandamus directing the first respondent to hand over the endowment to the second respondent so as to enable them to handover the management of the charities to the fourth respondent and consequently direct the fourth respondent Arulmigu Sundareswarar Temple to manage the charities and perform the charities as originally created for the purpose of specific endowment and performance of daily Archanai (Nithya Pooja) in Sri Meenakshi Sundareswarar Temple, Madurai, considering the larger interest of Hindu Devotees and noble secular aspects the charity items involved as per the Register of specific endowment and Kattalais of the Devasthanam.

For Petitioner : Mr.Karthik Kannan

For Respondents : Mr.Veera Kathiravan



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Additional Advocate General
assisted by Mr.S.Vinayak for R1

Mr.P.Thilak Kumar
Govt. Pleader for R2, R3 and R5

Mr.S.Manohar for R4

ORDER

(Order of the Court was made by R.SURESH KUMAR, J)

The facts of this case in nutshell are as follows :

(i) As averred in the affidavit filed in support of this petition, the case of the writ petitioner is that, he is a State Joint General Secretary of VHP, i.e., Vishwa Hindu Parishad and also the State Joint Convener of Temples and Mutts Defence Wing of VHP at Madurai.

(ii) The petitioner has filed this writ petition as a Public Interest Litigation with a prayer of writ of mandamus seeking a direction to the first respondent to hand over the endowment to the second respondent so as to enable them to hand over the management of the charities to the fourth respondent and consequently direct the fourth respondent Arulmigu Meenakshi Sundareswarar Temple to manage the charities and perform the charties as originally created for the purpose of specific endowment and

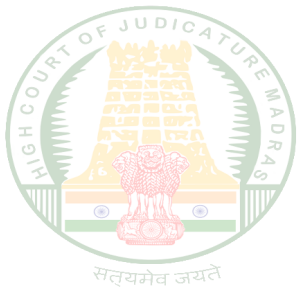


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performance of Daily Archanai (Nithya Pooja) in Arulmigu Meenakshi Sundareswarar Temple, Madurai.

(iii) In the year 1707, a charity was created, namely Kunnathur Sambian Chattaram (K.S.Chattaram) Charities mainly for the performance of daily Archanai in Sri Meenakshi Sundareswarar Temple, Madurai and other charitable activities mentioned thereunder. This charities were originally created by a Naick king namely Vijayaranga Chokkanantha Naick by means of a copper plate grant endowing 5 villages and from the income of which, the charities has to be conducted.

(iv) In the year 1803, the British Government resumed the villages and granted a monthly cash allowance to the Huqdars to conduct the charities. This was later on converted into a annual "Dastic" allowance of Rs.2,450/- by the Board of Revenue in 1869. Thereafter the management of the charities was transferred to the Madurai Municipality, Madurai in the year 1872 and from then onwards, the said Madurai Municipality, presently Madurai Corporation is still holding the property of the said K.S.Chattram Charities.



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WEB COPY (v) According to the charities document, there were four charities to be performed, i.e., (1) Feeding of 105 persons daily at the Chattram at a cost of 002 pons; (ii) Feeding of persons at Vandiyur at the time of Chitrai Festival of Sri Kallalagar at a cost of 25 pons; (iii) Daily worship in Sri Meenakshi Sundareswarar Temple at Madurai at the cost of 12 pons and (iv) Water pandal from the first week of the month of Masi to 30th of Vaigasi, i.e., for four months at a cost of 42 pons.

(vi) It is the further contention of the writ petitioner that, though the charities were entrusted with the then Madurai Municipality, presently the Madurai Corporation, the object of the charities is for the performance of daily Archanai in Sri Meenakshi Sundareswarar Temple, that was not carried out by the Municipality for the past 40 years. The Municipality has not done any such charity as mentioned supra. Originally since the Meenakshi Sundareswarar Temple was in the control of Deputy Commissioner of HR & CE Department, Thanjavur, he has declared in O.A.No.15 of 1955 that item 2 and 3 of K.S.Chattram Charity has religious characters of specific endowment and item 1 and 4 are secular charities as

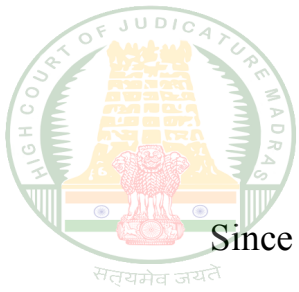


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per the copy of the extract of the register of specific endowment and Kattalais of Sri Meenakshi Sundareswarar Temple Devasthanam.

(vii) It is their further contention that, though with the noble purpose, the Naick king created the charities and the same since has been entrusted to Madurai Municipality for administration, they have completely stopped the charities work for the past 40 years. Also the Madurai Corporation has demolished the building of the K.S.Chatram located very nearer to Meenakshi Sundareswarar Temple without even consulting the Hindu Religious and Charitable Endowments Department as through which only the Madurai Corporation was suppose to carry out the works if at all they do.

(viii) It was further stated in the affidavit that, none of the charities since have been performed as stated in the copper plate and the property has not been used for the purpose which it has been endowed and the building also has been demolished. These information had been secured by the petitioner by way of RTI query from the temple authorities on 01.12.2015.



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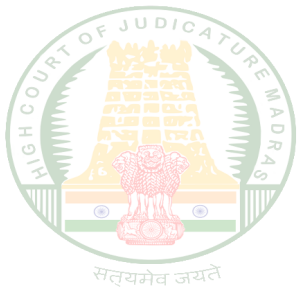
Since the charities as has been intended by the creator of the charities have not been performed by the Madurai Corporation, large number of Hindu devotees are expecting that if these charities is transferred to the temple authorities for performing the charities regularly, large number of Hindu devotees will be benefited.

(ix) With these contentions, the petitioner had filed the said writ petition with the aforesaid prayer.

2. The writ petition has been pending before this Court for all these years.

3. Sometime in February 2024, the writ petition came up for hearing before a Division Bench, where the Division Bench by order, dated 20.02.2024 passed the following :

"The petitioner has filed the present Writ Petition to direct the first respondent to hand over the endowment to the second respondent so as to enable them to handover the management of the



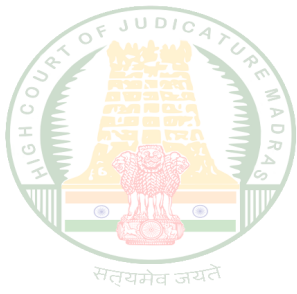
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charities to the fourth respondent and consequently to direct the fourth respondent Arulmigu Sundareswarar Temple to manage the charities and perform the charities as originally created for the purpose of specific endowment and performance of daily Archanai (Nithya Pooja) in Sri Meenakshi Sundareswarar Temple, Madurai, considering the larger interest of Hindu Devotees and noble secular aspects the charity items involved as per the Register of specific endowment and Kattalais of the Devasthanam.

2.Mr.S.Manohar, learned counsel appearing for the fourth respondent would submit that 'Kunnathur Sambian Chathiram' was established in the year 1707 by granting five Villages namely Kunnathur, Kalimangalam, Elamanoor, Sengottai and Parayankulam for running the Choultry and the purpose of Choultry is to food and water to the devotees. To maintain the Choultry activities, Huqdars were appointed to administer and perform the charities ever. During the year 1803, the British Government took the Villages into their custody and granted a monthly cash allowance to the Huqdars to conduct the Charities. Thereafter, the management of the Charities was transferred and



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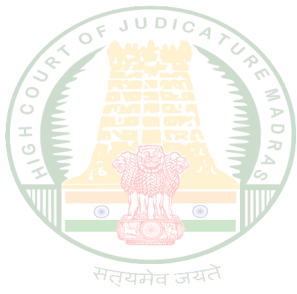
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vested with the Madurai Municipality in the year 1872 and it is still under the management of the Madurai Municipal Corporation. Due to the dispute among the Huqdars and Madurai Municipal Corporation regarding the administration of the said Chatiram, the fourth respondent Temple is not in a position to take over the properties dedicated for the said purpose.

3.Mr.Veera.Kathiravan, learned Additional Advocate General assisted by Mr.S.Vinayak, learned counsel on record for the first respondent would submit that the first respondent constructed the building by investing huge amount of Rs.8 crores and therefore the petitioner cannot seek for return of the said building to the fourth respondent-Temple.

4.The learned Additional Advocate General would further submit that the aforesaid Chathiram has become dilapidated and therefore, they had constructed new building in the aforesaid property by investing a sum of Rs.8 crores. Hence, according to them, now the fourth respondent Temple cannot seek for handing over the said building to the Temple.

5.The learned counsel appearing for the fourth



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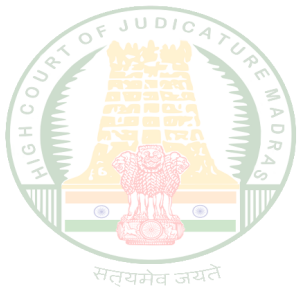
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respondent Temple would submit that without the consent of the fourth respondent Temple, the first respondent Corporation has constructed the aforesaid building and leased out to the various persons and no income has been derived from the said property to the Temple and therefore, he seeks necessary orders to be passed in the Writ Petition.

6.Considering the facts and circumstances of the case, the first respondent Corporation is directed to get instructions for the proposal with regard to the fact that the fourth respondent Temple has agreed to pay the aforesaid amount which has been invested for construction of the building to the first respondent Corporation or according to the fourth respondent Temple, the first respondent Corporation has to come forward for payment of the ground rent to the Temple.

7.The learned counsel appearing for the fourth respondent Temple would submit that the fourth respondent Temple is ready to agree for any of the above proposals.

8.The learned Additional Advocate General would submit that either one of the proposal will be considered by the first respondent Corporation taking into the aforesaid fact and file a report



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before this Court on 05.03.2024, failing which appropriate order will be passed."

4. Pursuant to the said direction issued by the Division Bench, the first respondent, i.e., the Commissioner, Madurai Corporation has filed a report dated 04.03.2024, where inter alia, the first respondent has stated the following :

" 2. It is submitted that the management of Kunnathur Chathiram was transferred by the British Government to Madurai Municipal Corporation by virtue of G.O.Ms.No.60, Financial dated 18.1.1872, From 1872 onwards, the Madurai Corporation has been managing the Kunnathur Chathiram, which is a specific endowment created with an object for performing the following charities.

- A. To give Annadhanam to 105 persons daily in the Chathiram.
- B. Feeding of persons, who throng at Vandiyur and offering water by establishing (Thaneer Pandhal) during Chitra Pournami Festival when deity Kallazhagar enters into Vaigai River.
- C. During Masi, Panguni, Chitirai and Vaigai months Water Pandal to be established and giving water to public.
- D. For performing poojas to deity Meenakshi Sundareshwarar at Madurai daily.

3. It is submitted that all these years, Corporation has been



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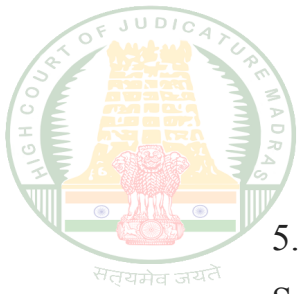
paying monthly allowances to Hakdars / Trustees and out of the allowance given by the Corporation, the Hakdars feed the poor people everyday and they were performing the charities.

4. It is submitted that while so, building of the Chathram has become dilapidated condition and the Corporation had demolished the same and constructed 191 shops. The tenants who were occupying in the Pudhumandapam were accommodated in the Kunnathur Chathiram. The details of the project of construction areas are extracted hereunder.

Original Estimate cost	: Rs.7.91 Crores
Agreement cost	: Rs.7.17 crores
Name of Contractor	: R.R. Thulasi Builders Pvt. Ltd.,
Work Order dated	: 24.01.2019
Work Order period	: 12 months
Date of Completion	: 12.10.2021

High light of project:

a. Area of the site	: 16019 Sq. ft.
b. Area of the basement floor	: 15487 Sq. ft. No. of shops - 66 Nos.
c. Area of the Ground floor	: 15340 Sq. ft. No. of shops-93 Nos.
d. Area of the First floor	: 11388 Sq. ft. No. of shops - 32 Nos.
Total construct area	: 42215 Sq.ft. Total No. of shops 191 Nos.
Huqdars	: 3500 Sq. ft.
Parking Area	: 3500 Sq. ft.
Ground floor toilet	: 7 Seats + 2 Urinal
First floor	: 7 Seats



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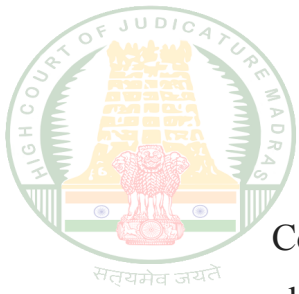


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5. It is submitted the Corporation had earmarked around 3500 Sq. ft. for Huqdars and a separate office space was also provided with all facilities including parking, toilet store room and kitchen for performing charities. The Corporation has been maintaining the Chathiram all these years properly.

6. It is submitted that admittedly, the temple is not an owner of the Kunnathur Chathiram. The T.S.No.953 in Ward VIII, Block No.10 stands in the name of Kunathur Chathiram which is a specific endowment. Hence, paying ground rent to the temple and handing over the management to the temple would not arise as sought by the Petitioner and 4th Respondent. Since the Madurai Corporation is ready and willing to perform the charities as mentioned above, the proposal suggested by the temple to receive the construction cost or to pay ground rent to temple would not arise at this stage, since the Corporation is ready to perform all the charities. The Executive Officer i.e., 4th Respondent of temple has made a bald allegation against the Madurai Corporation as if Corporation is not doing charities. All the allegations levelled by the Petitioner and the 4th Respondent are strongly denied. The Corporation all these years managing the charities properly.

7. It is submitted that since the Huqdars of the Kunnathur Chathiram is no more and they have passed away during COVID-19 pandemic, the charities were not able to do. Now, the



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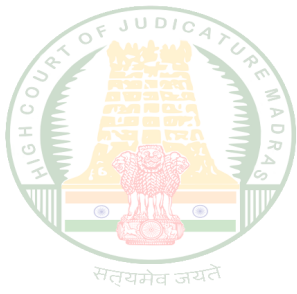
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Corporation is ready and willing to do all the above mentioned charities in the interest of general public.

8. It is submitted that Corporation is also ready to pay the expenses for daily pooja for the deity Meenakshi Sundareshwarar as fixed by the temple. The proposal of the 4th Respondent that the Corporation has to pay ground rent and temple is willing to pay the construction cost to the Corporation cannot be acceded."

5. Thereafter the case came up before us for hearing, where after hearing both sides, we have passed the order on 15.04.2024, which reads thus :

"As per the report filed by the 1 st respondent ie., Commissioner of Madurai Corporation, Kunnathur Chathiram building since has become dilapidated, they decided to demolish the same and re-constrect it by constructing 191 shops for commercial purpose to generate revenue to fulfil the endowment purpose that has been given in the specific endowment. Accordingly, they completed the construction on 12.10.2021 by constructing 191 shops, which are commercial in nature. Out of which, the Corporation is generating revenue every month.



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2. Even though it was claimed by the learned Additional Advocate General appearing for the 1st respondent Corporation that specific endowment as specified in the endowment deed is being complied with without fail, since the property belongs to the endowment and also some activities have to be undertaken related to Arulmigu Meenakshi Amman Temple, we feel that the 1st respondent Corporation shall render the account details atleast from 1st January, 2022, where all the new 191 shops could have been in possession for exploiting the same commercially. Unless that account is furnished, what is the amount that has been spent by the 1st respondent for making such construction, out of which, how much revenue is being generated every month and how much amount is kept in the account of the Chathiram, cannot be verified.

3. Therefore, we direct the 1st respondent Corporation to file accounts from 01.01.2022 till 31.12.2023 in detail during the next hearing date before this Court."



6. Pursuant to the said direction given by us, the first respondent has

filed a report which is in Tamil, dated 04.06.2024, which reads thus :

"மதுரை மாநகராட்சி

அறிக்கை

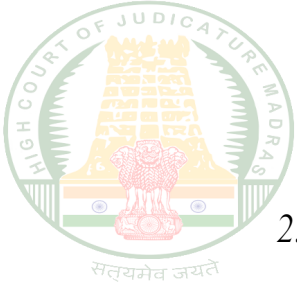
மதுரை மாநகராட்சி மண்டலம்-3 குன்னத்தூர் சாம்மையன் சத்திரம் - வழக்கு தொடர்பாக நீதிமன்ற தீர்ப்புரையின்படி மதுரை மாநகராட்சி சார்பாக மேற்கொள்ளப்பட்ட நடவடிக்கை விபரத்தினை அறிக்கையாக மாண்பமை நீதிமன்றத்தில் சமர்ப்பிக்க தெரிவிக்கப்பட்டது.

மதுரை மாநகராட்சிக்கு பாத்தியப்பட்ட குன்னத்தூர் சாம்மையன் சத்திரம் சார்பாக சித்திரை பெருவிழா 2024-ஐ முன்னிட்டு அருள்மிகு மீனாட்சி சுந்தரேசுவரர் திருக்கல்யாணம், தேரோட்டம், மற்றும் கள்ளழகர் வைகையாற்றில் எழுந்தருளுதல் ஆகிய விழாக்களை முன்னிட்டு 21.04.2024 முதல் 23.04.2024 வரை முன்று நாட்களுக்கு மதுரை மாநகராட்சி சார்பாக முன்று தினங்களுக்கு தினந்தோறும் 500 நபர்களுக்கு அன்னதானம், நீர்மோர் பக்தர்களுக்கு வழங்கப்பட்டது.

மாண்பமை சென்னை உயர்நீதிமன்ற மதுரை கிளை வழக்கு எண்.WP(MD) No.1612/2016 தீர்ப்புரை நாள் 15.04.2024 இன்படி கீழ்காணும் விபரங்கள் சமர்ப்பிக்கப்படுகிறது.

1. 191 கடைகளுக்கான கட்டுமான செலவினம்
(Estimate cost)

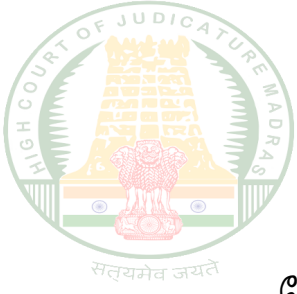
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2. 171 கடைகளுக்கான ஒரு மாத வாடகை ரூ.12,63,906/-
3. 171 கடைகளுக்கான ஜனவரி 2022 முதல் டிசம்பர் 2023 வரை மாநகராட்சி கேட்பு தொகை (24 மாதங்கள்) (Demand) ரூ.3,03,33,744/-
4. 171 கடைகளுக்கான ஜனவரி 2022 முதல் டிசம்பர் 2023 வரை மாநகராட்சி வசூல் தொகை (Collection) ரூ.1,87,31,658/-
5. 171 கடைகளுக்கான ஜனவரி 2022 முதல் டிசம்பர் 2023 வரை மாநகராட்சி செலுத்த வேண்டிய வாடகை நிலுவை தொகை (Balance) ரூ.1,16,02,086/-
6. சித்திரை பெருவிழா 2024ஐ அருள்மிகு மீனாட்சி சுந்தரேசுவரர் திருக்கல்யாணம், தேரோட்டம் மற்றும் கள்ளழகர் வைகையாற்றில் எழுந்தருளுதல் ஆகிய விழாக்களை முன்னிட்டு 21.04.2024 முதல் 23.04.2024 வரை மூன்று நாட்களுக்கு மதுரை மாநகராட்சி சார்பாக மூன்று தினங்களுக்கு தினந்தோறும் 500 நபர்களுக்கு அன்னதானம், நீர்மோர், டேபிள் சேர், வீடியோ, புகைப்படம் போன்ற செலவின தொகை ரூ. 1,94,910/-
7. சித்திரை திருவிழாவிற்கு பொது சுகாதார பணிகளுக்கான உபகரணங்கள் (கிருமி நாசினிகள், தளவாட பொருட்கள், துப்புரவு கருவிகள்) செலவின தொகை ரூ. 96,52,064/-
8. தற்காலிக குடிநீர் தொட்டி அமைத்தல், குடிநீர் வழங்கியது செலவின தொகை ரூ. 13,86,000/-



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மேற்படி குன்னத்தூர் சாம்பையன் சத்திரத்தின் மாத
வாடகை அடிப்படையில் ஒதுக்கீடு செய்யப்பட்ட
கடைகளிலிருந்து பெறப்படும் தொகை குன்னத்தூர்
சாம்பையன் சத்திரம் என பிரத்யேக வங்கி கணக்குகள்
ஏதும் இல்லை. ஆனால் வரவு செலவு திட்ட மதிப்பீட்டில்
தனியாக கணக்கு தலைப்பில் கணக்கிடப்படுகிறது."

7. We have heard Mr.Karthik Kannan, learned counsel appearing for the petitioner as well as Mr.P.Thilak Kumar, learned Government Pleader appearing for the HR & CE and Mr.S.Manohar, learned counsel appearing for the temple authorities (R4) and Mr.Veera Kathirvan, learned Additional Advocate General assisted by Mr.S.Vinayak, learned counsel appearing for the first respondent Corporation.

8. The learned Additional Advocate General appearing for the first respondent Corporation has brought to our notice that, in fact in the year 2006, a writ petition was filed in W.P.(MD).No.5610 of 2006 by one S.Balasubramanian and one S.Ramasamy being the Hereditary Huqdars of the K.S.Chattram Charities for the prayer of writ of mandamus forbearing



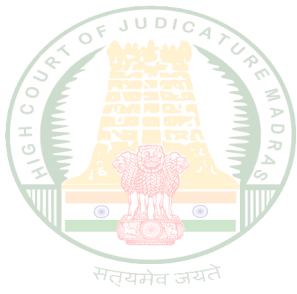
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the respondent, i.e., the Madurai Municipal Corporation from demolishing the superstructure of the Chathiram situated at Door No.86, East Avani Moola Street, Madurai.

9. During the pendency of the writ petition, there was a compromise entered into between the Huqdars of the Chathiram as well as the first respondent Madurai Corporation and the said compromise memo had been filed before the writ court in W.P.(MD).No.5610 of 2006, where the writ court having recorded the compromise memo has disposed the writ petition by order, dated 25.08.2006.

10. In the said order, the writ court having recorded the compromise memo filed between the parties, has passed the following order:

" 2. In view of the hostile attitude of the Respondent in demolishing the portion of the property, the present Writ Petition came to be filed. However, in the interest of the Petitioners trust and also keeping in view of the benefit that will accrue to the public as well as the Respondent



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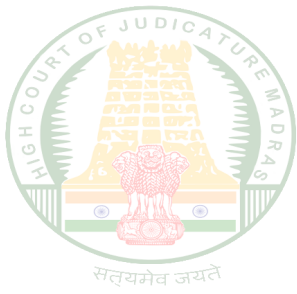


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Corporation, the parties have now arrived at a compromise which has been reduced to a memorandum of compromise dated 25.8.2006, filed before this Court. Along with the memo of compromise, the parties have submitted three plans for the proposed construction after demolition. The terms of compromise is as follows:

"After due deliberations the Petitioners are satisfied that the proposal suggested by the Respondent would be in the interest and beneficial to the Chatram and in that process, the Chatram will get new premises and enhanced income and with that the object of the chatras can be conducted in a better manner and the parties to this Writ Petition have arrived at a compromise on the following terms and conditions.

1. The Petitioners have agreed that the Respondent is permitted to demolish the existing structure and build a new shopping complex in the said Chatram property after providing sufficient area as hereinafter stated for running the object of the above said Chatram and the Respondent is also permitted to rehabilitate the existing shopwalas inside the Pudumandapam in the proposed



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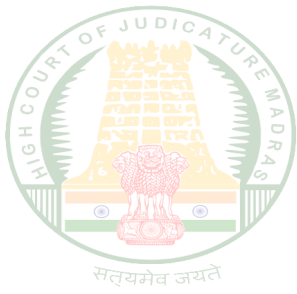
complex with modern facilities including the Chatram by way of construction of new shops in the complex.

2. The shops located in the Pudumandapam to be evicted and shifted to the proposed complex for the purpose preserving the monuments and Architectural Character of the Pudumandapam.

3. As soon as the construction of the shopping complex is completed, the shops will be allotted only to the persons who are running their shops in the Pudumandapam and also the persons who are running the shops in the Chatram.

4. The newly constructed shopping complex will be named as Kunnathur Sampayyan Chatram and shall be the property of the Chatram. The proposed construction of the shopping complex is undertaken by the Corporation either with their own funds or raising funds through loans. The Huggars will not provide any financial assistance for the proposed construction and they will not be party to any loan transaction.

5. The Corporation undertakes to construct ground floor and first floor in the above said Chatram property and the Corporation shall provide 3800 Square feet of constructed area in the first floor



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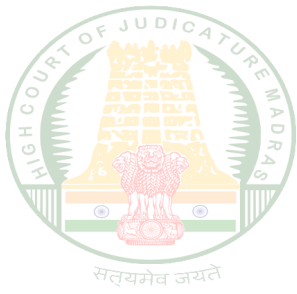


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facing the East Avani Moola Street to the Hugdars for the purpose of running Chatram and also undertakes to provide 575 Square feet of constructed area in the ground floor for the use of Chatram Office as shown and marked in the plan annexed herewith. The Corporation further undertakes to construct the extent of 3800 Square feet in the first floor as per the Hugdars specification and further undertakes to furnish them with the fixtures as requested by Hugdars. The Corporation undertakes to provide the same Area of 3800 Square feet in the second floor over and the above area occupied by the Chatram in the first Floor, in the event of construction of 1 floor. The Corporation provides basement parking as shown in the plan and the Hugdars of the Chatram are entitled to make use of the said parking area and use the income for the object of the Chatram.

6. The Respondent / Corporation shall not allow any part of the premises to be used for the purpose of running any canteen or hotel or place of worship or congregation of any other religion.

7. The Hugdars are entitled to appoint staffs for running the Chatram, which may include one Accountant, two watchmen, one Brahmin cook,



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one Brahmin Archakar two sanitary workers and they shall be the employees of the Chatram and they shall be paid consolidated wages by the Corporation and the payment shall be only through Huqdars of the Chatram.

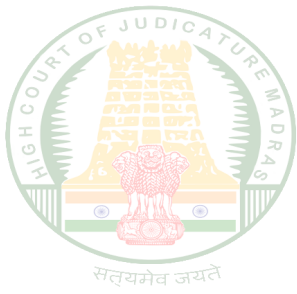
8. The areas to be given to the Chatram shall be exclusively used by the Huqdars for the object of the Chatram and also for the benefit of Hindus.

9. The Respondent / Corporation have to give the copy of the balance sheet of the income and expenditure of the Chatram to the Huqdars and neither the Respondent nor the tenants of the shops have any right to interfere with the enjoyment of the aforesaid areas by the Huqdars and also in the administration.

10. The Huqdars are entitled to receive the Pooja Prasatham daily from the Arulmigu Meenakshi Sundareswarar temple.

11. The Respondent / Corporation shall pay the approximate expenses to be incurred by the Huqdars for annual Samaradani in connection of Chitra festival in advance on request of the Huqdars.

12. The Respondent / Corporation shall take all endeavor to pay the monthly allowances to the



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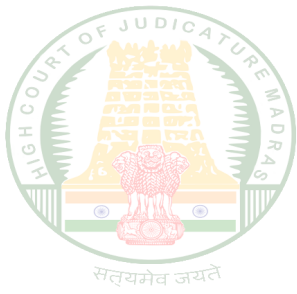
Petitioners at an enhanced rate as mutually agreed by the Huqdars and the same shall be approved by the Council of Corporation. The monthly allowances shall also be reviewed once in every 3 years by the parties.

13. The Corporation shall hand over all the movables belonging to the Chatram to the Huqdars.

14. The Respondent agrees to put up construction in such a manner that there will no access to the portions allotted to the Huqdars from the areas to be allotted to the lessees.

15. The Respondent shall maintain proper account of the rental income of the Chatram property and the surplus income shall be used only for the objects of the Chatram and not for any other purpose.

16. The Huqdars are at liberty to use the areas allotted to the Chatram in consonance with the object of the charities and they are liable to account for the income that may be generated by the use of the said areas and the Respondent cannot interfere with such expenses to incurred by the Huqdars.



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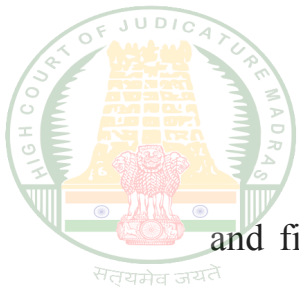
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17. The Respondent shall take all endeavor to pay the past arrears of Huqdar allowances to the Petitioners within a reasonable period.

18. The parties therefore pray that the above compromise shall be recorded and the Writ be disposed of in terms of the above terms of compromise."

3. Recording the above said compromise, the Writ Petition is ordered accordingly. The memo of compromise and three plans shall form part of the decree."

11. Relying upon the said order, dated 25.08.2006 made in W.P. (MD).No.5610 of 2006, the learned Additional Advocate General would submit on behalf of the first respondent Corporation that, the Chathiram building since had become dilapidated conditions, as agreed by the Huqdars, was demolished. In the place which has become vacant due to the demolition of the old building, the Corporation decided to construct a shopping complex and accordingly, a shopping complex was constructed consisting of 191 shops. In the said building consisting of basement, ground



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and first floor, an extent of 3500 sq.ft. had been allotted to Huqdars and 3500 sq.ft. had been allotted to parking area.

12. The learned Additional Advocate General would submit that, since the Puthu Mandapam is one of the aesthetic building which is to be used by the fourth respondent temple during the festival season, they wanted to evict the shop owners who had been large in numbers in the said Puthu Mandapam Building and on agreed terms, 300 such shop owners were vacated from the Puthu Mandapam, out of whom 191 had been allotted shops at the present complex constructed by the Corporation in the Chatram land and the rent being collected from those shop holders mainly are being utilised for the charitable purpose, for which charity was created and especially during the period of Chitirai Festival such a charitable work is being undertaken.

13. The learned Additional Advocate General would contend that, insofar as the Nithya Pooja at Sri Meenakshi Sundareswarar Temple is concerned being one of the charity purpose of the charities since Huqdar died during Covid-19 situation, there had been no Huqdar and therefore that



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performance could not be executed through the Huqdar, except which all other charities being performed by the Madurai Corporation from the fund being generated out of the rend being paid by the 191 shop holders.

14. In this context, the report which has been extracted herein above dated 04.06.2024 has been relied upon by the learned Additional Advocate General.

15. We have also heard the learned standing counsel appearing for the temple authorities who would very much rely upon the counter affidavit filed by the fourth respondent dated 31.01.2024 and he would submit that the Madurai Corporation which got administration of the Chatram failed to perform the charities on account of dispute with Huqdars. However, the Corporation continued to enjoy the income arriving out of the lands dedicated to perform the said daily poojas.

16. He has further stated that, since Huqdars and the Madurai Corporation who are having the administrative right did not come forward



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to perform daily poojas, hence, the fourth respondent temple continues to perform the daily poojas only out of his own funds till date.

17. It is his further contention that, the rent arising out of the Kunnathur Chatram is being collected by the Madurai Corporation and they are not coming forward to perform the religious charities endowed with the said properties annexed with the fourth respondent temple.

18. It is his further contention that, based on the entries made in the Register of specific endowments and Kattalais maintained by the fourth respondent temple, when the Corporation decided to take over the control of the property endowed to the fourth respondent temple, since the Huqdars as well as the Madurai Corporation which got power of administration of the said Chatram are not coming forward to perform the religious charities annexed with the fourth respondent temple.

19. Therefore the learned counsel appearing for the fourth respondent temple would submit that, the temple is ready and willing to pay the entire cost of the construction of the shopping complex incurred by the Madurai



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Corporation and the building could be handed over to the temple authorities, in alternative, the Madurai Corporation have to pay the ground rent to the temple authorities and whatever the income derived from the shopping complex be handed over to the temple authorities for performing the charities, if not the entire Chatram administration is transferred to the temple authorities.

20. We have considered the said submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

21. The Kunnathur Sambian Chattaram was established in the year 1707 with avowed object of performing daily pooja at Meenakshi Sundareswarar Temple, Madurai and to feed 105 persons daily at the Chattram and also to feed the devotees who throng at Vandiyur during the Chitirai Festival when lord Kallalagar enters into Vaigai River and also to offer drinking water by establishing water shed, i.e., தண்ணீர் பந்தல் during the summer season comprising the tamil months of Masi, Panguni, Chithirai and Vaikasi correspondingly from 15th of February to 15th of

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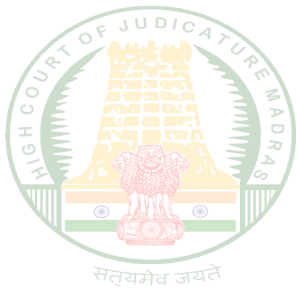


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June. As for the said purposes only, five villages were originally dedicated and Huqdars were also appointed to administer the charities and to perform the charities.

22. It could be noted that, the British Government at one point of time, i.e., in the year 1803 decided to take over the five villages dedicated for the chattram charities, in lieu of that, they granted the monthly cash allowances to the Huqdars to conduct the charities which was later converted into an annual Dastic allowance of Rs.2,450/- by the Board of Revenue in the year 1869.

23. Thereafter the Chattram Charity was transferred by the British Government to Madurai Municipal Corporation by virtue of G.O.Ms.No.60, Finance Department, dated 18.01.1872. By thus from 1872 onwards, the Administration or Management of the Chattram had been entrusted to the then Madurai Municipality presently the Corporation of Madurai with a specific endowment created with an object of performing the four main charities stated therein.

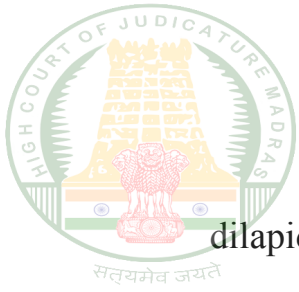


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24. From 1872 if at all the Madurai Municipality had been taking over the administration of the Chattram and to continue to support the charity activities as provided in the charity document, at what point of time, there had been a dispute between the Huqdars and Corporation, due to which when these charities performance was stopped has exactly not been mentioned by any documents. However it was claimed by the fourth respondent temple authorities as well as the writ petitioner that atleast for forty years these charities have not been properly executed by the Municipal Corporation.

25. It seems that at one point of time there has been serious dispute between the Huqdars and the Corporation and ultimately the issue has gone to this Court, where a writ petition was filed in W.P.(MD).No.5610 of 2006, where a compromise had been entered into between the Madurai Corporation and Huqdars with various clauses which has been extracted herein above. By virtue of the said compromise which has been taken on record by disposing the writ petition by order dated 25.08.2006, the Huqdars on behalf of the charities had agreed upon to demolish the old



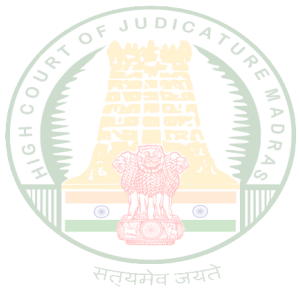
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dilapidated building-Chatram and to construct a new shopping complex by the Madurai Corporation.

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26. Pursuant to the said order in the said writ petition in W.P. (MD).No.5610 of 2006, it seems that the building was started construction from January 2019 and the construction work was completed in October 2021. According to the report submitted by the first respondent, dated 04.03.2024, the original estimate was Rs.7.9 Crores and the agreement cost is Rs.7.17 Crores.

27. In the report dated 04.06.2024, the temple has claimed that the total cost incurred by the Corporation for construction of the shopping complex consisting of 191 shops and other built up area for the Huqdars / Charities or its office is only Rs.7.91 Crores. Therefore, it is an admitted fact on the part of the first respondent corporation that they have spent only Rs.7.91 Crores for the construction.



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28. Such a construction was undertaken by the Municipal Corporation at the permission of the Huqdars as well as the agreement reached between the parties, based on which, the writ court passed order on 25.08.2006.

29. Since the construction work was over by October 2021, 191 shop keepers have been allotted shops who had been hitherto running the shops at Puthu Mandapam from where they have been evicted or vacated and from January 2022, they started occupying these shops. This is also an admitted fact as stated by the first respondent Corporation in its report dated 05.06.2024.

30. Insofar as the four charitable purposes mentioned in the charity document, the first one relates to feeding of 105 persons daily at Chatram. Whether such a charity is undertaken by the Corporation or the erstwhile Huqdars has not been claimed by them or stated with supporting documents. Like that, at the time of Chitirai Festival when Kallalagar enter into the Vaigai River, feeding must be given to devotees in large numbers, for which in the year 1707, 25 pans were allotted but as of now, taking into the cost escalation a considerable amount has to be spent by the charities to feed the

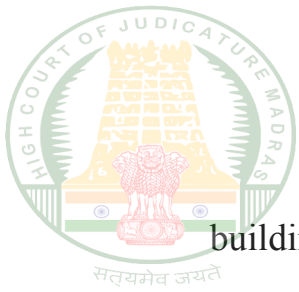


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devotees who throng at the time of Chitirai Festival while the lord Kallalagar enter into the Vaigai River. The third purpose was daily worship, i.e., Nithya Pooja in Sri Meenakshi Sundareswarar Temple at Madurai and the fourth purpose was they have to establish water pandal, i.e., தண்ணீர் பந்தல் for the benefit of not only the devotees but also the general public in Madurai at various places for the four tamil months starting from Masi to Vaikasi.

31. In order to fulfill these charitable work as intended through the charity document, for which the charitable endowment was created, a considerable amount have to be spent. Therefore in order to augment the revenue, a decision to construct a shopping complex might have been taken by the Corporation with the consent of the Huqdars. That is the reason why agreement was entered upon between the Huqdars of the Charities and the Corporation which culminated in the order dated 25.08.2006 made in W.P. (MD).No.5610 of 2006.

32. Therefore insofar as demolition of the erstwhile dilapidated Chatram building and to make a shopping complex construction as a new



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building undertaken by the first respondent Municipal Corporation is concerned, we cannot find any flaw or error on the part of the first respondent Corporation,

33. However, once the construction is over where all the 191 shops since had been allotted for various shop holders and rent also has been fixed and according to the accounting at a glance given by the first respondent in its report dated 04.06.2024, the total rent fixed for 171 shops per month is Rs.12,63,906/-. The rent payable by 171 shop holders for the period from January 2022 to December 2023 would come to Rs.3,03,33,744/-, out of which only a sum of Rs.1,87,31,658/- alone claimed to have been received by the Corporation. According to them, a sum of Rs.1,16,02,086/- is the due which is yet to be recovered or received.

34. Be that as it may, admittedly the Corporation would get a monthly revenue of Rs.12,63,906/-. Therefore the yearly revenue would come around Rs.1.5 Crores. If that Rs.1.5 Crores would be the revenue per year, within a decade, apart from the expenses to be incurred for the charity purpose, the entire construction cost of Rs.7.91 Crores with nominal interest can be realised by the Madurai Corporation. Therefore beyond that period, the

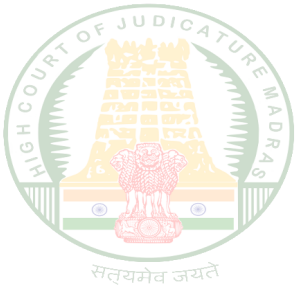


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Corporation cannot make a claim that they have invested huge money, therefore the shopping complex belongs to the charities must be with them to realise the revenue.

35. In the alternative, it is the stand of the fourth respondent temple authorities that, they are ready and willing to pay the entire construction cost to the Corporation. On receipt of the same, let the Corporation transfer the administration of the charities including the shopping complex to the fourth respondent temple. For such an arrangement, the Corporation has not agreed as stated by them in their report.

36. Be that as it may, assuming that the administration of the shopping complex is to be with the Madurai Corporation, it is not the revenue of the Corporation as it is only a stop gap arrangement which was given sometime in 1872 by the then British Government to administer the charities. However the charities belongs to the fourth respondent temple and what are all the four main object which has been underlined in the charity document should be given priority to be fulfilled from the revenue being generated out of the charity properties.

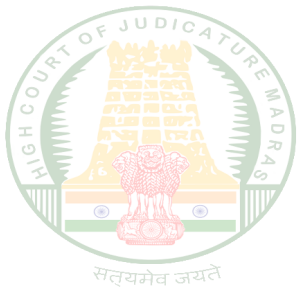


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WEB COPY 37. In this context, it is to be noted that, according to the report dated 04.06.2024 filed by the first respondent Corporation, for the year 2024 Chitirai Festival, they claimed to have spent Rs.1,94,910/- for feeding 500 devotees for three days during the Chitirai Festival.

38. It has also been claimed by the Corporation that, for the purpose of installing water tanks for providing drinking water, they claimed to have spent Rs.13,86,000/-. However it is also the claim of the Madurai Corporation that for the purpose of purchasing sanitary equipments and germicidal, they claimed to have spent a sum of Rs.96,52,064/- during the Chitirai Festival of the year 2024. Therefore totally more than Rs.1.10 Crores claimed to have been spent during the Chitirai Festival by the Corporation out of the fund being generated from the Chatram property.

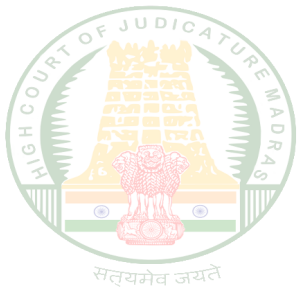
39. This kind of claim of spending money is absolutely unlawful, because what has been the specific endowment mentioned in the charities alone to be undertaken.



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40. Assuming that item 1 and item 3, i.e., feeding of 500 peoples for three days and installing the water tanks for providing drinking water during the festival season, if the Corporation claimed Rs.16 lakhs, even for which there has been no detailed statement of accounts have been provided before us, could be justified to some extent. However, the huge claim made by the Corporation as if that they have spent a sum of Rs.96,52,064/- for purchasing the sanitary equipment, germicidal etc., is not only unlawful and unjustifiable but also is impermissible. The reason being that, the four objects that have been mentioned in the charity document does not contain this kind of job to be undertaken by spending the fund from out of the charities. If at all the local authority, namely the first respondent Madurai Corporation have to maintain the hygienic conditions of the Corporation area during the Chitirai Festival season, it is for them to spent money from out of their budgeting. The charity money cannot be spent under the head of sanitation and other aspects claimed by them, which is illegal and goes against the very spirit of the charity document. Therefore that kind of spending cannot be approved by this Court.



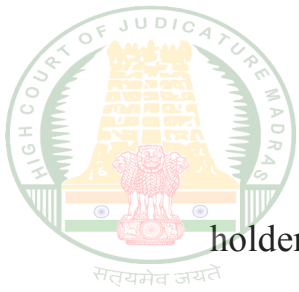
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41. It is pertinent to note that it is not the claim of the first respondent Corporation that they have been continuously performing the charity works of the charities in all these years. No document whatsoever have been filed before this Court. That apart even in the statement dated 04.06.2024, it has not been claimed by the first respondent Corporation that, they have performed the charity of Nithya Pooja at Arulmigu Meenakshi Sundareswarar Temple at Madurai, which is one of the main object of the charities

42. Therefore these claim now made by filing the simple accounting by the first respondent Corporation clearly demonstrates or reveals that the charity fund being generated from collecting the rent from 191 shop holders are being spent indiscriminately, as most of the funds claimed to have been spent beyond the scope of the charity document. Therefore such kind of spending at the hands of the first respondent out of the fund being generated from the charity properties can no more be permitted.

43. It is further to be noted that, even for the year 2022 and 2023, a sum of Rs.1,87,31,658/- alone was recovered by way of rent from 171 shop



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holders and a sum of Rs.1,16,02,086/- had been due which has not been recovered from the shop holders. If such a huge amount has not been recovered by the Corporation, that shows that they are not properly administering the charity properties.

44. That apart it is also not known that, why the remaining 20 shops have not been let in and whether the 20 shops have been kept vacant or being utilised for any other purpose for the Corporation itself has also not been spelt out before us. It is also not known on what basis rent has been fixed for each of the shop and in this regard, whether the current rate of the Public Works Department was taken as guidance and in this context, whether the temple authorities have been taken into confidence are all not been stated by the first respondent Corporation.

45. Having considered all these aspects, we find that if not the entire administration of the charity properties, i.e., the shopping complex is to be transferred to the fourth respondent temple immediately, even if the administration is to be continuously in the hands of the first respondent Corporation, certain corrective measures necessarily have to be taken,



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otherwise the very purpose of the charity would get defeated as the beneficiary of the charity is Arulmigu Meenakshi Sundareswarar Temple and large number of Hindu devotees who come to the temple and also large number of Hindu devotees who come to participate in the Chitirai Festival when lord Kallalagar enter into the Vaigai River. That kind of purposes should not be permitted to let down.

46. Therefore we are of the view that the following orders can be passed in this writ petition :

(i) Atleast from 01.01.2022, the first respondent Madurai Corporation shall submit full and detailed account of receipt and expenditure in respect of the K.S.Chatram Trust properties and the same shall be forwarded to the fourth respondent Temple.

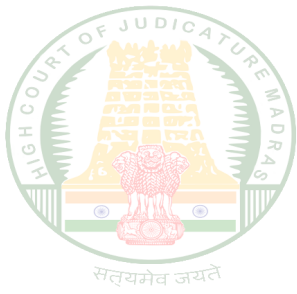
(ii) Out of the revenue collected from shop holders by way of rent from the Chatram properties, except the four purposes for which the charity was created, for no other purpose the money should be spent by the first respondent Corporation.



(iii) *Except for spending money for the purposes of free feeding daily at Chatram, feeding of persons during the Chitirai Festival and for installing the water pandals during the period between Masi and Vaikasi months of every year, for no other purpose the money shall be spent.*

(iv) *Insofar as expenses like making arrangements during the Chitirai Festival, sanitation work and purchasing of equipment etc., are concerned, it is the work to be undertaken by the first respondent Corporation from their own funds. Therefore for such purposes, the money from the charities shall not be spent. Therefore the claim made by the first respondent Corporation that they have spent Rs.96,52,064/- during the 2024 Chitirai Festival for purchasing the sanitary equipment etc., shall be reimbursed by the Madurai Corporation to the Charity account.*

(v) *The entire receipts shall be deposited in a separate account created in this regard by the first respondent Corporation in the name of K.S.Chatram Charities or Kunnathur Sambian Chatram Charities and all expenditures shall be*



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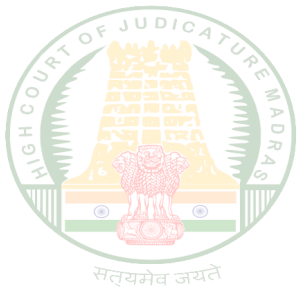


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made only by way of Negotiable Instruments from out of the said account alone and no cash receipt or cash spending shall be undertaken by the first respondent Corporation.

(vi) Insofar as the main object of the Trust namely, the daily worship, i.e., Nithya Pooja in Arulmigu Meenakshi Sundareswarar Temple at Madurai is concerned, the first respondent Corporation in consultation with the fourth respondent, i.e., the Executive Officer of the fourth respondent temple has to fix the amount required for such a charity namely the daily pooja, i.e., Nithya Pooja at the temple and such money on monthly basis be transferred to the fourth respondent Temple without fail.

(vii) The first respondent shall take endeavour to recover the huge rental due to the extent of Rs.1,16,02,086/- and even any future balance from the shop keepers immediately, i.e., with a period of two months. If any of the shop holders does not pay the arrears within the period and become defaulters, they can be evicted and in



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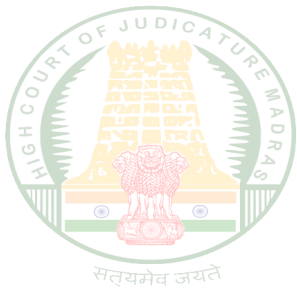
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the evicted shop new tenant can be fixed by way of enhancing the current rent into the market rent.

(viii) Since the rent seems to have been fixed prior to 01.01.2022, from January 2025 onwards enhancement of rent also to be made by the first respondent Corporation which may be between 10 to 15% of the existing rent and accordingly, the enhanced rent also be recovered regularly without fail from the shop holders by the first respondent Corporation.

(ix) The entire accounting of the charities shall be separately audited by the Auditor of the fourth respondent temple or the Department of the HR & CE.

(x) Since large number of people everyday coming to Sri Meenakshi Sundareswarar Temple, one of the object of feeding 105 persons daily at Chatram shall be strictly complied with, where everyday based on the issuance of advance token 105 persons shall be provided free feeding, i.e., one meal during the lunch time and that shall be undertaken all the 365 days in a year without fail.



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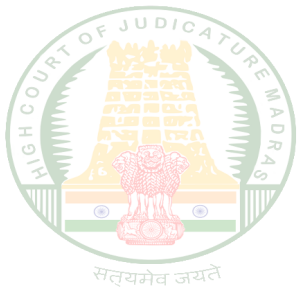


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(xi) These routine feeding activities if at all to be undertaken by the first respondent Corporation, the same can be monitored and supervised by the fourth respondent Temple authorities.

(xii) Insofar as the other two objects namely feeding of persons during Chitirai Festival and establishing water pandals during the summer seasons are concerned, how many people to be fed for the three days during the Kallalakar Chitirai Festival and at how many places that water pandal have to be established can be decided by having a joint meeting with the fourth respondent by the first respondent and accordingly, as per the joint decision to be taken in this regard alone, such an arrangement shall be made and money shall be spent by the first respondent Corporation from the Charity fund.

(xiii) Let this arrangement be continued as of now. In this regard, still if there is any violation on the part of the first respondent or if there is any non co-operation on the part of the fourth



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respondent, the same can be brought to the notice of this Court for making suitable alterations and corrective measures.

47. With this slew of directions, this writ petition is disposed of.

However, there is no order as to costs.

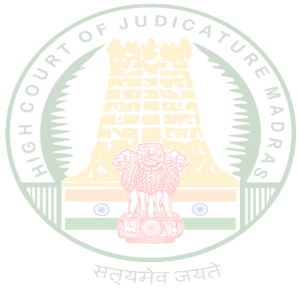
(R.S.K., J.) (G.A.M., J.)
11.06.2024

Index : Yes

Speaking Order : Yes

Neutral Citation : Yes

tsvn

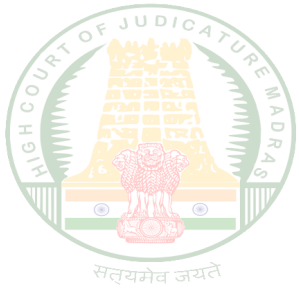


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To

1. The Commissioner
Madurai Corporation,
Madurai.
2. The Commissioner
Hindu Religious and Charitable Endowments,
Nungambakkam High Road,
Chennai - 600 034.
3. The Joint Commissioner
The Hindu Religious and Charitable Endowments,
No.1, West Chithirai Street,
Madurai - 625 001.
4. The Executive Officer
Arulmigu Meenakshmi Sundareswarar Temple,
Madurai - 625 001.
5. The Assistant Commissioner
The Hindu Religious and Charitable Endowments,
Jawans Bhavan, West Veli Street,
Madurai - 625 001.



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W.P.(MD).No.1612 of 2016

**R.SURESH KUMAR, J.
AND
G.ARUL MURUGAN, J.**

tsvn

W.P.(MD).Nos.1612 of 2016

11.06.2024