

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08-07-2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

WRIT PETITION No.20234 of 2015

and

M.P.No.1 of 2015

B.Rajaguru

President

A/M Sri Devi Gangai Amman Temple
Trust

No.72, Dharga Road

Malanganandhapuram

Zamin Pallavaram

Chennai 600 043

... Petitioner

vs

1.The Joint Commissioner

Hindu Religious and Charitable

Endowments Department

Nungambakkam High Road

Chennai 600 034

2.The Inspector (Circle-7)

Hindu Religious and Charitable

Endowments Department

Nungambakkam High Road

Chennai 600 034

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records of the first respondent in Na.Ka.No.845/2015/A1 dated 26.6.2015, and quashing the same.

For Petitioner : Mr.N.Velmurugan

For Respondents : Mr.M.L.Mahendran
Government Advocate

ORDER

By consent, the writ petition itself is taken up for final disposal.

2.The petitioner claims that he is the President of Arulmighu Sri Devi Gangaianman Temple Trust, which is administering Sri Devi Gangaianman Temple, Malangananthapuram, Zamin Pallavaram, Chennai 43, for so many years. The petitioner would further state that, though the members of the Trust are administering the said temple from the date of inception, in order to gain legal validity, they filed an application in O.A.No.9 of 2010, on the file of the

first respondent, praying to frame a scheme of administration and it is still pending adjudication.

3.The petitioner would further state that pending disposal of the said application, the second respondent, without giving any opportunity or issuing any notice, inspected the temple and filed a report dated 31.12.2012, before the first respondent, based on which, the first respondent, without giving the petitioner, an opportunity of cross-examining the said official, has appointed the Executive Officer of Arulmighu Renganathaswamy Temple, Thiruneermalai, Chennai, as a Fit Person, and the petitioner challenging such appointment, filed an appeal in A.P.No.17 of 2013 before the Commissioner of Hindu Religious and Endowments Department, who, after going through the materials, has remanded the matter once again to the first respondent for de novo enquiry and during the course of de novo enquiry, witnesses were examined including the Inspector, the second respondent herein, and the petitioner had also cross-examined him and also submitted his written argument and orders were reserved by the first respondent; but, however, to the shock and surprise of the petitioner, the first respondent, in his administrative capacity, has issued the impugned notice dated 26.6.2015, stating that with regard to the complaint received against the petitioner and also the administration of the temple, the second respondent was directed to conduct enquiry, after informing the petitioner and also after going through the relevant records. Aggrieved by the said notice, the petitioner has filed this writ petition.

4.The learned Counsel appearing for the petitioner, would submit that admittedly, orders have been reserved in O.A.No.9 of 2010 and the second respondent, without any jurisdiction whatsoever, has issued the impugned notice dated 26.6.2015, by directing the second respondent to conduct inspection once again, after putting the petitioner, on notice and in order to get over the wrong and lapses committed by the department officials, the second respondent is deputed to conduct enquiry and prays for interference.

5.Per contra, Mr.M.L.Mahendran, learned Government Advocate, who accepted notice on behalf of the respondents, would submit that the first respondent having felt that some more materials have to be collected, has deputed the second respondent to do so and also pointed out that on an earlier occasion, it was the grievance of the petitioner and the second respondent, without putting the petitioner on notice, conducted inspection and collected materials behind his back and since the proper procedure is being followed by the respondents, the petitioner cannot ventilate his grievance and hence, prays for dismissal of the writ petition.

6.Rule 16(1) of the Holding of Inquires Rules would state that the appropriate authority may in his or their discretion, upon the application of any of the parties to a proceeding, send for, either from his or their own records or from any other public officer the record of any proceedings and inspect the same. As per Rule 20 of the said Rules, the provisions of the Civil Procedure Code and Civil Rules of Practice and Circular Orders shall apply, as far as practicable, to appearance of pleader and to affidavits, production of documents, examination of witnesses, taking of oral evidence,

proof by affidavits, filing of exhibits, issue of commissions, return of documents not admitted in evidence, and other connected matters, and the inquiry shall be made, as far as practicable, in the manner laid down in the said Code for the trial of suits.

7. Therefore, in the light of the said Rules, this Court is of the view that the first respondent is having power to issue such an order. It is also pertinent to point out at this juncture, that the first respondent has also directed the second respondent to inform the petitioner in advance, his proposed date of visit and collect the documents in his presence and hence, the petitioner cannot make any complaint or grievance in that regard.

8. The learned Counsel appearing for the petitioner, would further submit that in the event of the second respondent collecting further materials/documents and submitting a report, an opportunity of cross-examining the witness once again, may not be possible for the reason that orders have already been reserved by the first respondent. In the considered opinion of the Court, the apprehension expressed by the petitioner, appears to be genuine.

9. Therefore, in the event of the second respondent collecting any fresh materials/documents and submitting a report to the first respondent, the copies of the same shall be furnished to the petitioner and the first respondent in that event, shall reopen the enquiry once again, and examine the second respondent as one of the witnesses and it is always open to the petitioner to cross-examine the said witness at the time of recall and re-examination. The writ petition is dismissed subject to the above observation. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

nsv

To:

1. The Joint Commissioner
Hindu Religious and Charitable
Endowments Department
Nungambakkam High Road
Chennai 600 034

2. The Inspector (Circle-7)
Hindu Religious and Charitable
Endowments Department
Nungambakkam High Road
Chennai 600 034

+1 cc to Mr.N.Velmurugan, Advocate, SR.34223

+1 cc to M/s. Government Pleader, SR.34388.

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