

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.16568 of 2016

Shri. Muthaiyan Temple
represented by its Chairman-
Managing Committee Mr.Sivakumar,

... Petitioner

Vs.

1. The Joint Commissioner,
Office of the Commissioner,
Hindu Religious and Charitable Endowment
Department, Nungambakkam High Road,
Chennai - 34.
2. The Assistant Commissioner,
Hindu Religious and Charitable Endowments
Department, Ariyalur District.
3. The Inspector,
Hindu Religious and Charitable
Endowments Department,
Ariyalur District.
4. S.D.Ramachandran,
President,
Korathagudi Shri Muthian Temple Trust,
No.601/2-A/A, Market Street,
Ariyalur 621 704,
Ariyalur District.

... Respondents

PRAYER : Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus calling for the records pertaining to the impugned order of the first respondent passed in Ni.Mu.No.13929/2016/E5 dated 28.03.2016 and quash the same and consequently forbear the first respondent, his officers, subordinates, men, agents from interfering with the administration and management of the Shri Muthaiyan Temple situate at Korathakudi Village, Sannavur Post 621 651, Dalmia Via, Ariyalur Taluk, Ariyalur District.

For Petitioner : Mr.R.Sagadevan

For Respondents : Mr. K.V. Dhanapalan
Additional Government Pleader
(HR & CE) R1 to R3.

O R D E R

The petitioner has come forward with this Writ Petition challenging the impugned order passed by the first respondent in Ni.Mu.No.13929/2016 E5, dated 28.3.2016 and also for consequential direction forbearing the first respondent, his officers, subordinates, men, agents from interfering with the administration and management of Shri.Muthaiyan Temple situate at Korathakudi Village, Sannavur Post 621 651, Dalmia Via, Ariyalur Taluk, Ariyalur District.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader (HR & CE) appearing for the respondents 1 to 3.

3. According to the petitioner, he is the Chairman of Managing Committee of Shri Muthaiyan Temple, which is an ancient temple, situate at Korathakudi Village, Sannavur Post 621 651, Dalmia Via, Ariyalur Taluk, Ariyalur District. The said temple is belonging to the Korathakudi Villagers living in and around the Ariyalur District. The temple is having land to an extent of hectare 3.68.50 in Sannamar (South) in S.F.No.397/1. Every year, the lands belonging to the temple used to be auctioned and the income derived from the auction will be utilised for the temple activities.

4. The fourth respondent had founded a Korathagudi Shri Muthaian Temple Trust, which is a public charitable trust having office at No.601/2-A/A, Market Street, Ariyalur 621 704 and the fourth respondent, being the founder President of the above said Trust had nominated the following persons namely 1. K.V.Viswanathan, 2. P.Chakravarthy, 3. G.Manickam, 4. C.M.Tamilarasan, 5. M.K.Natrajan, 6. M.Muralidharan, 7. S.Subramaniam, 8. S.M.Kannan, 9. R.V.M.Karthikeyan 10. M.Jayarajan, 11. P.Arjunan 12. P.Selvam, 13. S.Rajendran 14. N.Senthilkumar 15. C.Pichamuthu to be the trustees of the Trust and further the Trust Deed was registered on 3.10.2013 under Document No.10 of 2013.

5. The main object of the trust is to satisfy the devotees of the Korathagudi Sri Muthaiyan Temple and to carry out the temple activities and to organize Maha Kumbhabishekam and

regular pooja activities and an account was also opened in the name of the Trust in Indian Bank, Dalmikyapuram at Kallakudi. After the formation of Trust, the three treasurers of the Trust namely i) Viswanathan, ii) Chakravarthi and iii) Mancikam have collected money from the public by giving receipts. Suspecting the action of the above said persons, that they had misappropriated the amounts collected from public as donation, the fourth respondent and all the trustees in charge have been asked to submit proper accounts by the villagers, which they have not rendered and produced them. The above said three treasurers carried out the renovation and construction of the temple with the money collected from the public. Whiles, the Tamilarasan, Secretary and their groups also collected money from the public by issuing receipts. In the circumstances, both had hurled allegations against each other that both groups had misappropriated the amounts collected for temple and they had lodged complaints against each other in the year 2013 before the Venganur Police Station, Venganur, Ariyalur and criminal cases are also pending against each other.

6. During the course of enquiry, the said Chakravarthi, who is one of nominated trustees and another group led by Viswanathan, nominated trueesee preferred a complaint against each other on 8.2.2016 with regard to the dispute arose between both parties in respect of doing pooja and constructing new temple building and the complaints are pending enquiry stage before the Venganur Police Station. Thereafter a peace committee meeting was conducted by the Sub Collector Ariyalur and both groups are advised to do the development of construction work in the temple jointly.

7. As per the instructions of the Collector, Ariyalur District, H.R & C.E's Department also has contemplated to take over the said Temple and the same was intimated through the Inspector of Police that the process of take over the said Temple is intimated by letter No.Na.Ka.No.327 of 2016 on 9.3.2016 issued by the Assistant Commissioner, H.R.& C.E., Department, Ariyalur which was pasted in the temple premises. Due to the dispute that arose among the trustee groups, the villagers were mostly affected and the temple construction work and the renovation works were also affected.

8. It is the further case of the petitioner that the 4th respondent herein without any legal right, title or interest had formed a public trust with an object to siphoning the collection of public money and further the fourth respondent and its trustee have not rendered proper accounts to the villagers, inspite of several demands and there is huge mismanagement and misappropriation of funds committed by the

fourth respondent and the trustees, hence the villagers had taken a decision and passed a resolution to the effect that they formed a Managing Committee to manage the temple and further, the petitioner being an elected Chariman of the Managing Committee, gave a representation to drop all further actions taken by the Assistant Commissioner, H.R.& C.E., Department, Ariyalur against Shri Muthiayan Temple.

9. The villagers after coming to know that the fourth respondent and trustees have given consent to the 2nd respondent to take over the said temple, had convened an extraordinary meeting on 2.4.2016 and they had unanimously appointed a 13 member managing committee including petitioner and the petitioner was elected as the chairman of the Managing Committee and further, it was resolved that all the trustees and the fourth respondent have been removed from all the post and further in the capacity of trustees, they should not indulge in any temple activities and further resolved that the trust and the trustees have no authority to deal with temple management and affairs and further necessary communications have been sent by the petitioner to all the officials concerned including the District Collector, Ariyalur and all other officials including the Assistant commissioner, H.R & C.E. Department, Ariyalur by a representation dated 7.4.2016.

10. It is the grievance of the petitioner, the entire problem has been created by the 4th respondent after formation of the public trust namely Korathagudi Shri Muthian Temple Trust, a public Charitable trust and further the trustees have acted against the objects of the trust and further they all have indulged in misappropriation of funds and committed criminal breach of trust and further facing criminal cases against each other. Hence, as per the resolution passed by the villagers and based on the authority given to the petitioner, the petitioner issued legal notice dated 20.4.2016 calling upon the 4th respondent and its Trustees to cancel the Korathagudi Shri Muithian Temple Trust a public Charitable Trust Deed, failing which, suitable action would be taken.

11. It is the further grievance of the petitioner that the first respondent without complying the procedures mentioned in Tamilnadu HR & CE Act and Rules, had pasted a notice in the temple premises, by which, they have taken over the Temple by its proceedings in Ni.Mu.No.13929/2016/E5 dated 28.3.2016 and no notice has been served on the temple poojari or on the notice to the villagers Headman. As the above said order has been passed without conducting any enquiry on the villagers and the devotees and the persons interested in the Temple, the petitioner has filed the present Writ Petition.

12. Learned counsel for the petitioner submitted that the 4th respondent and its trustees, in order to escape from the criminal proceedings and their misappropriation of temple funds collected from the public, have given consent to the H.R. & C.E. Authorities to take over the temple and simply based on the consent given by them, the first respondent has passed the impugned order without following the procedure contemplated under the Tamilnadu Hindu Religious and Charitable Endowments Act 1959. Further, the impugned order is passed without conducting any enquiry and without issuance of any show cause notice on the persons interested in the temple, hence the same is passed in violation of principles of natural justice and non-est in the eye of law and therefore, the same is liable to be quashed.

13. The learned Addl. Govt. Pleader (H.R. & C.E.) submitted that the enquiry is still pending and the same is now under progress.

14. Learned counsel for the petitioner submitted that the petitioner has also given two representations dated 4.4.2016 and 7.4.2016 before the Commissioner, H.R. & C.E. Department, Chennai and it would suffice, if the representations dated 4.4.2016 and 7.4.2016 is disposed of within the time limit stipulated by this Court.

15. Considering the submissions made on both sides, this Court, without going into the merits of the case, in the interest of justice, directs the respondents 1 to 3 to consider the representations of the petitioner dated 4.4.2016 and 7.4.2016 by conducting enquiry and during the course of enquiry, the respondents 1 to 3 are directed to afford an opportunity of personal hearing to the petitioner as well as to all the necessary parties and pass appropriate orders on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion with regard to merits of the claim projected by the petitioner and it is for the respondents 1 to 3 to decide the representations given by the petitioner purely on merits and in accordance with law.

16. With the above direction, this Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

msr

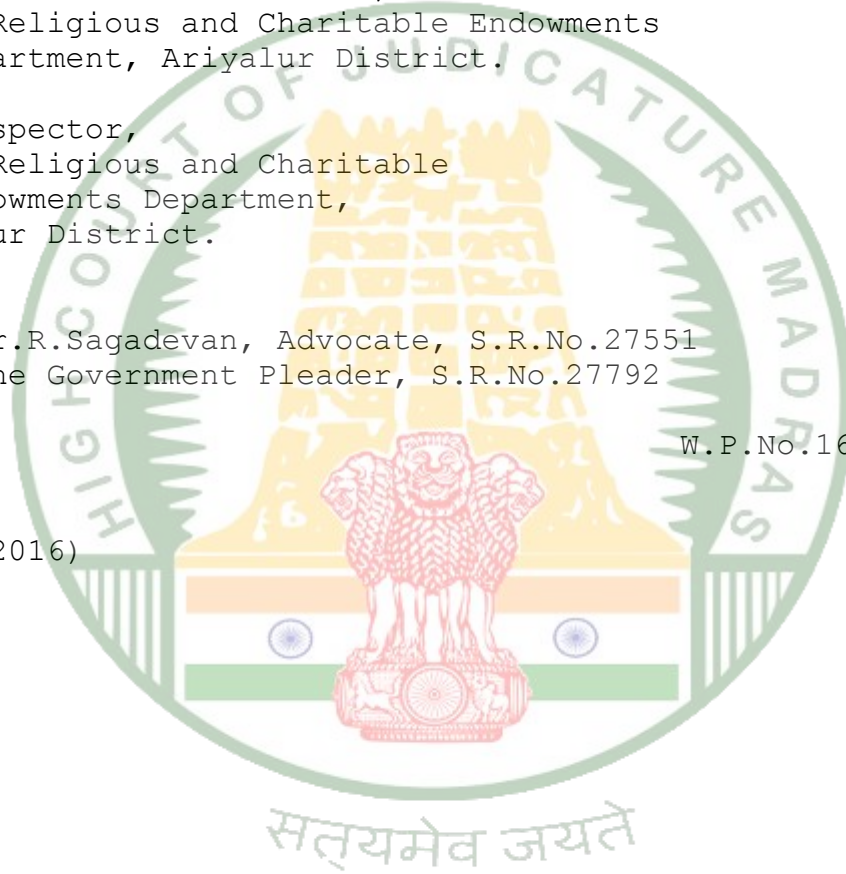
To

1. The Joint Commissioner,
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Hindu Religious and Charitable Endowment
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2. The Assistant Commissioner,
Hindu Religious and Charitable Endowments
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3. The Inspector,
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Ariyalur District.

+lcc to Mr.R.Sagadevan, Advocate, S.R.No.27551
+lcc to the Government Pleader, S.R.No.27792

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LRS (CO)
CA(03/05/2016)



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