

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2016

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.24604 of 2016

And

W.M.P.No.21020 of 2016

Arulmigu Parasuramalingeswarar Temple
Religious and Public Charitable Trust
Represented by its Secretary
Mr.N.Purushothaman Petitioner

Vs.

- 1 The Secretary to Government
Tourism, Culture and HR & CE Department,
Fort St. George,
Chennai - 600 009.
- 2 The Commissioner
Hindu Religious and Charitable Endowments
Administration Department,
Nungambakkam High Road
Chennai - 600 034.
- 3 The Joint Commissioner
Hindu Religious and Charitable Endowments
Administration Department,
119, Uttamar Gandhi Road,
Chennai - 600 034.
- 4 The Executive Officer
Arulmigu Parasuramalingeswarar Temple,
No.16, PE Koil Main Street,
Ayanavaram,
Chennai - 600 023. Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 1 and 2 to consider the petitioner's representations dated 02.03.2016 and 10.06.2016 and appoint the trustees as recommended by the petitioners trust in the 4th respondent temple within the time stipulated by this Honourable Court.

For Petitioner : Mr.M.Muthappan

For Respondents : Mr.R.Govindasamy
Special Government Pleader for R1
Mrs.Rita Chandrasekar
Special Government Pleader (HR & CE)
for R2 to R4

O R D E R

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

2.The petitioner would state that Thiruvalluvar P.Gajendran, K.Ganesan, G.Lakshminarasimhan, N.Purushothaman (deponent of the affidavit), D.Gunasekaran, K.Jagadeesan and K.Omprakash had approached the third respondent by filing original application in O.A.No.17 of 1996 under Section 64(1) of the Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959, for framing a scheme and it was ordered on 03.06.1998 and it is relevant to extract the scheme hereunder:

"S C H E M E

1.This Scheme shall come into force from the date of publication in the District Gazette of Madras District.

2.The Administration of A/M.Parasuramalingeeswarar temple, Ayyanavaram Chennai - 23 and its properties movable and immovable which belongs to, or have been, or hereafter be given dedicated, or endowed there to and acquired for the temple in general or any one or more of the deities in particular do and shall vest in the respective deities.

3.The temple of Arulmigu Parasuramalingeeswarar temple, Ayyanavaram Chennai - 23 shall be administered by a Board of Non-hereditary trustee, and not less than three and not more than five in number to be appointed by the appropriate authority under the provisions of the Tamilnadu H.R.&.C.E.Act 1959 (Amended Act 39/96) and as amended from time to time and rules made thereunder. The period of appointed trustees will commence from the date of election of Managing trustee or the Chairman Board of trustees as the case may be.

4.The administration and affairs of the temple namely Arulmigu Parasuramalingeeswarar temple, Ayyanavaram Chennai - 23 shall be carried on subject to the provisions of the Scheme, shall vest in a board of Non-hereditary trustees consisting not less than three and not more than five in number to be constituted by the competent authority in accordance with the provisions of the Act 22 of 1959 as amended by the Act 39/96 from amongst the members of ARULMIGU PARASURAMALINGEESWARAR TEMPLE RELIGIOUS AND PUBLIC CHARITABLE TRUST AYYANAVARAM CHENNAI - 23 and who are permanently residing in Ayyanavaram, provided that they do not suffer from any of the disqualifications mentioned in section 26 of the H.R.&C.E.Act as amended from time to time.

5.If any doubt or difficulties arises in the matter of implementation of any of the provisions of the Act, rules and scheme clause, such matters shall be reported to the appropriate authority whose decision shall be final.

6.Save in so far as expressly provided for herein the provisions of the H.R.&C.E.Act 1959 (Tamilnadu Act 22 of 1959) as amended by the Act 39/96 and rules framed there under as may be amended from time to time shall apply to the management and administration of the temple."

3.The petitioner would further state that the rival trust namely, Arulmigu Parasuramalingeswarar Public Charitable Trust came to be found on 07.09.2009 by Thiruvalargal P.Gajendran, G.Nandhakumar, G.Chittibabu, Murali Babu, M.Srithar, G.Vinayagam and P.Bala Shanmugam and they also insisted for appointment of trustees and on an earlier occasion, approached this Court by way of filing writ petition in W.P.No.12769 of 2010 and this Court vide order dated 15.07.2010, has directed the third respondent to consider their representation as well as the representation of the fourth respondent therein - the trust represented by Thiru.P.Gajendran.

4.The grievance expressed by the petitioner is that despite the order of approving the scheme passed by the third respondent, it has not been given effect to and in this regard, has submitted representations dated 02.03.2016 and 10.06.2016

and also sent legal notice dated 28.04.2016, to the respondents and since no orders have been passed, came forward to file this writ petition.

5.The learned counsel appearing for the petitioner would submit that the first respondent has also directed the third respondent to take into consideration the representation submitted by the deponent of the affidavit dated 10.06.2016 and take action and inform the same to them and despite the same, the third respondent is keeping quiet and therefore, the petitioner is constrained to approach this Court.

6.Mrs.Rita Chandrasekar, learned Special Government Pleader (HR & CE) who accepts notice on behalf of the respondents 2 to 4 would submit that the petitioner on an earlier occasion had approached this Court by way of filing writ petition in W.P.No.21977 of 2009 for the very same relief and it was dismissed as withdrawn on 25.06.2010 and on account of the rival claim, the decision could not be taken.

7.This Court also heard the submissions of Mr.R.Govindasamy, learned Special Government Pleader who accepts notice on behalf of the first respondent and also perused the materials placed before it.

8.Though the petitioner prayed for a larger relief, this Court in the light of the above facts and circumstances and without going into the merits of the same, directs the third respondent to take note of the communication of the first respondent dated 22.06.2016, in Na.Ka.No.27386/2016/A1 and the rival claim also and after putting Arulmigu Parasuramalingeswarar Thirukoil, Religious and Charitable Public Trust represented by Thiru.P.Gajendran on notice, pass orders, in accordance with law, within a period of ten weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner as well as to Arulmigu Parasuramalingeswarar Thirukoil, Religious and Charitable Public Trust represented by Thiru.P.Gajendran.

9.The writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

- 1 The Secretary to Government Tourism,
Culture and HR & CE Department,
Fort St. George,
Chennai - 600 009.
- 2 The Commissioner,
Hindu Religious and Charitable Endowments
Administration Department,
Nungambakkam High Road,
Chennai - 600 034.
- 3 The Joint Commissioner,
Hindu Religious and Charitable Endowments
Administration Department,
119, Uttamar Gandhi Road,
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- 4 The Executive Officer,
Arulmigu Parasuramalingeswarar Temple,
No.16, PE Koil Main Street,
Ayanavaram,
Chennai - 600 023.
- 5 Arulmigu Parasuramalingeswarar Thirukoil,
Religious and Charitable Public Trust
represented by its Chairman cum
Managing Trustee, Thiru.P.Gajendran,
No.1, P.E. Koil Tank Street,
Ayanavaram, Chennai - 600 023.

+1cc to the Government Pleader Sr.40433

W.P.No.24604 of 2016

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