



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.06.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.VENUGOPAL

W.P. (MD) No.11258 of 2016

and

W.M.P. (MD) .Nos.8616 and 8617 of 2016

Valarmathi

... Petitioner

Vs.

1. The Joint Commissioner,
Hindu Religious and Charitable Endowment Board,
Madurai.

2. The Executive Officer,
Arulmighu Madhana Gopalaswami Temple,
Melamasi Street,
Madurai-1.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records in pertaining to the impugned order of the second respondent No.Nil, dated 02.06.2016 and quash the same as illegal, consequently forbearing the respondents from evicting the petitioner from peaceful possession and enjoyment of the property in S.F.No.97, measuring an extent of 64 cents situated at Thandalai Village, Vadipatty Taluk, Madurai District without following any due process of law.

For Petitioner : Mr.T.Vadivelan

For R1 : Mr.V.Muruganandam
Additional Govt. Pleader

For R2 : Mr.S.Manoharan

O R D E R

Heard both sides.

2. By consent, the main Writ Petition itself is taken up for final disposal.

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3. No counter is filed on behalf of the respondents.



4. According to the petitioner, the Vinayagar Temple is a small one and her community people of her village are occasionally worshipping the temple and further, now she is maintaining the temple without any hindrance. Moreover, the plea of the petitioner is that no one has appointed her as a trustee or poojari of the said temple. But, their family is maintaining the same from time immemorial. Moreover, a separate Vinayagar temple is also in her village for the public.

5. The grievance of the petitioner in the present writ petition is that the second respondent/Executive Officer, Arulmighu Madhana Gopalaswami Temple, Melamasi Street, Madurai, had passed the impugned order dated 02.06.2016, in which it was mentioned that there was a letter from a retired Thasildar as regards the temple property which was changed into private person's name and to safeguard the property, the first respondent/Joint Commissioner, Hindu Religious and Charitable Endowment Board, Madurai had invoked his power under Section 49(1) of Hindu Religious and Charitable Endowment Act 22 of 1959 and amended Act 39 of 1996 and appointed him as a fit person to maintain the said temple. Furthermore, in the said order, it was ordered that the petitioner should hand over the charge of the temple on 25.06.2016 at 11.00 a.m., failing which the charge would be assumed automatically.

6. On behalf of the respondents, it is brought to the notice of this Court that the first respondent on 18.02.2016, appointed a fit person to the second respondent temple and that order has not been challenged by the petitioner till date. However, the petitioner is only assailing the validity and correctness of the order dated 02.06.2016 passed by the second respondent.

7. The stand taken on behalf of the respondents is that the petitioner without challenging the original order dated 18.02.2016, (appointing fit person to the temple), cannot challenge the consequential order dated 02.06.2016 before this Court in a writ petition. Furthermore, the petitioner as against the original order dated 18.02.2016 and the subsequent order dated 02.06.2016 has a viable, effective and efficacious alternative remedy under the Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959 and in the instant case, the petitioner has not availed the concerned forum. Therefore, without exhausting the remedy available under the Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959, the writ petition filed by the petitioner before this Court is a premature and otiose one.

8. On a careful consideration of a respective contentions and pleas, this Court bearing in mind the entire conspectus of the attendant facts and circumstances of the present case in an integral manner, comes to a resultant conclusion that the



petitioner has filed the present writ petition without exhausting the remedies available under the Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959. Therefore, this Court, prima facie holds that the writ petition filed by the petitioner is per se not maintainable in the eye of law.

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9. Viewed in that perspective, the writ petition sans merits. In fine, the writ petition is dismissed leaving the parties to bear their own costs. It is open to the petitioner to approach the concerned authorities under Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959, for seeking necessary reliefs as per the aforesaid Act within a period of two weeks from the date of receipt of a copy of this order. Till such time, the status-quo as on today is ordered to be maintained.

10. It is open to the petitioner to raise all factual and legal pleas before the concerned authorities. The connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (Crl.Side)

/True Copy/

Sub Assistant Registrar (CS)

To

1. The Joint Commissioner,
Hindu Religious and Charitable Endowment Board,
Madurai.
2. The Executive Officer,
Arulmighu Madhana Gopalaswami Temple,
Melamasi Street, Madurai-1.

+1cc to M/s.S.Manohar, Advocate, Sr.No.33329

+1cc to Mr.T.Vadivelan, Advocate, Sr.No.33278

+1cc to the Special Government Pleader, Sr.No.33099

akv

JM/NGM-MP/13.07.2016/3P-6C

W.P. (MD) No.11258 of 2016
24.06.2016