



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 15.12.2016

CORAM

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THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P (MD) No.23976 of 2016

and

W.M.P (MD) Nos.17293 and 17294 of 2016

RM.Ponnalagu Pattar

..Petitioner

Vs

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

2.AR.Muthu Vairava Pattar

3.S.Ambikabathi Pattar

Hereditary Trustee, having Office at
Arulmughu Jeyangonda Nayagi @
Poonkuntra Nayagi Amman Temple,
Magipalanpatti, Thirupathur Taluk,
Sivagangai District.

..Respondents.

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the first respondent in Na.Ka.No.5931/2013/C1/dated 29.11.2016 and to quash the same and consequently to direct the first respondent to permit the Petitioner to perform poojas and Punaskaras in the light of the order passed by the Deputy Commissioner of HR & CE in O.A.No.19 of 1964, dated 24.6.1966 in Arulmighu Jeyangonda Nayagi @ Poonkundra Nayagi Amman Temple, Magipalanpatti, Thirupathur Taluk, Sivagangai District.

For Petitioner : Mr.RM.Arun Swaminathan
for M/s.Chettinad Legal Solutions
For Respondent-1 : Mr.C.Selvaraj,
Special Govt.Pleader

ORDER

This Writ Petition is filed challenging the order of the first respondent, dated 29.11.2016, wherein and whereby, the Petitioner and two others were prevented from doing pooja at Arulmighu Jeyangonda Nayagi @ Poonkundra Nayagi Amman Temple, Magipalanpatti, Thirupathur Taluk, Sivagangai District.



2.Mr.C.Selvaraj, learned Special Government Pleader takes notice for the first respondent.

3.By consent of both parties, the main Writ Petition is taken up for final disposal at the admission stage itself.

4.It is seen that the Petitioner and other person by name Chinniah Pattar already approached the Civil Court and filed a suit in O.S.No.140 of 2006, on the file of Sub-Court, Sivagangai, seeking for declaration to declare the order passed on 18.11.2014 as null and void and consequentially for injunction to restrain the defendants therein from interfering with the plaintiffs right to perform as the Trustee of the said Temple.

5.Therefore, it is evident that the dispute between the parties has already been seized of by the Civil Court in a suit filed by the very same petitioner and another. When that being the factual position, I do not think that the Petitioner herein can file the present Writ Petition challenging the present impugned order which in effect is only a consequential one of the order already passed and under challenge in the said civil suit. No doubt, the learned counsel for the Petitioner contended that the officials of the HR & CE Department, who are parties to the said suit have not chosen to appear before the Civil Court and that they were set ex-parte. But that itself cannot give rise to a cause of action for the Petitioner to approach this Court and file the present Writ Petition, when admittedly, the suit is still pending and no decree has been passed so far. Therefore, this Court is of the considered view that the Petitioner can agitate all his right in the said suit. Needless to say that the official respondent herein representing the HR & CE Department shall take appropriate steps to make their appearance before the suit and allow the Civil Court to decide the same on merits and in accordance with law without dragging the matter.

6.With the above observation, this Writ Petition is dismissed. It is open to the Petitioner to move appropriate application before the Civil Court for appropriate relief by way of interlocutory application taking into consideration of the present impugned order passed by the first respondent. Consequently, connected Miscellaneous Petitions are dismissed. No costs.

Sd/

Assistant Registrar(Records)

/TRUE COPY/

Sub Assistant Registrar



The Joint Commissioner,
Hindu Religious and Charitable Endowment Board,
Sivagangai.

+1cc to Special Government Pleader in SR.No.80905.

W.P (MD) No.23976 of 2016
and M.P (MD) Nos.17293 and 17294 of 2016
15.12.2016

vsn
anr/em/sar1/16.12.16/p3/3c(IT)