



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 29.07.2016

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THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P (MD) No.17851 of 2013

and

M.P. (MD) Nos.1 and 2 of 2013

Ramanatheeswarar Parvathavarthini Amman Temple,
Represented through its Secretary,
S.Chinthamani (Aged 71 years),
S/o.Chinthamani Chettiar,
Natarajapuram Village, Sivagangai Taluk,
Sivagangai District.

.. Petitioner

Vs.

1.The Joint Commissioner,
HR & CE, Sivagangai.

2.The Assistant Commissioner,
HR & CE, Paramakudi,
Ramanathapuram District.

3.The Executive Officer,
Vettudaiyar Kaliyamman Temple,
Ariyakurichi,
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 to call for the records in Se.Mu.Na.Ka.No.3537/2012/A7, dated 09.12.2012 on the file of the 2nd respondent and quash the same as illegal, ultra vires and unconstitutional and consequentially restrain the respondents from in any way interfering with the peaceful possession and administration of the petitioner temple by the Secretary and his other Nagarathar families and thus render justice.

For Petitioner : Mr.V.Raghavachari

For Respondents : Mr.Aayiram K. Selvakumar
Government Advocate

**ORDER**

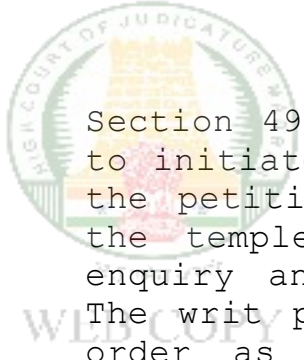
This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus to quash the proceedings of the second respondent dated 09.12.2012 appointing a Fit Person in respect of the temple i.e., Arulmighu Ramanatheeswarar Parvathavarthini Amman Temple, Natarajapuram Village, Sivagangai Taluk, Sivagangai District.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents 1 to 3.

3. The case of the petitioner is that the temple in question is under the administrative control of 24 families of Nagarathar community. According to the petitioner, the temple is a private temple and that no public contribution is accepted. The petitioner submits that the public are allowed to worship only with the permission of the persons who are in charge of the administration. It is also claimed by the petitioner that the temple in question is a denominational temple. Strangely, the second respondent Assistant Commissioner, Hindu Religious and Charitable Endowments Department, issued an order under Section 49 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, appointing a Fit Person in respect of the temple. The impugned order shows that no notice was issued before issuing the order of appointment of Fit Person in respect of the temple. The impugned order also indicates that the Fit Person so appointed should take possession and charge from the persons who are in office as Trustees. Having regard to the admitted facts, it is necessary that the second respondent, before exercising his power under Section 49 of the Act, has to issue a show cause notice, if really the second respondent wants to exercise his power to appoint a Fit Person to secure better administration for the temple.

4. In the counter affidavit, the second respondent has alleged certain irregularities in the management of the temple. Though the respondents disputed the status of the temple as denominational specifically denying the contention of the petitioner that the petitioner temple is a denominational one and that it has been recognised as a private temple, the fact that the impugned order has been passed without issuing a show cause notice is not disputed.

5. In the above circumstances, the petitioner cannot be compelled to exhaust the alternative remedy as provided under the Act. In that view of the matter, the impugned order passed by the second respondent in exercise of his power under Section 49 of the Act is void and liable to be quashed on the simple ground of violation of principles of natural justice. If the second respondent, for any other sufficient reason and cause, seeks to exercise his power under



Section 49 of the Act, liberty is given to the second respondent to initiate fresh proceedings, after issuing show cause notice to the petitioner and the persons who are in the administration of the temple and its day to day affairs, and after holding an enquiry and giving them reasonable opportunity of being heard. The writ petition is, therefore, allowed. However, there is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AE)

/TRUE COPY/

Sub Assistant Registrar

To

- 1.The Joint Commissioner,
HR & CE, Sivagangai.
- 2.The Assistant Commissioner,
HR & CE, Paramakudi,
Ramanathapuram District.
- 3.The Executive Officer,
Vettudaiyar Kaliyamman Temple,
Ariyakurichi,
Sivagangai District.

+1cc to M/S.V.RAGHAVACHARI,ADVOCATE, SR NO:41116

+1cc to M/S.THE SPECIAL GOVERNMENT PLEADER, SR NO: 40887

Srm

JA-DB-10.08.2016-3P:6C

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29.07.2016