

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 15.03.2017

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.6240/2017 & WMP.No.6731/2017

M/s.Radha Silk Emporium
rep.by its partner
Mr.K.Jairam

..Petitioner

Versus

- 1.The Secretary to Government of Tamilnadu
Tamil Development Religious Endowment
& Information Department, Fort St George
Chennai 600 009.
- 2.The Commissioner
Hindu Religious & Charitable Endowments
[Admn] Department, Uthamar Gandhi Salai
Nungambakkam, Chennai 600034.
- 3.The Joint Commissioner
Hindu Religious & Charitable Endowments
[Admn] Department, Uthamar Gandhi Salai
Nungambakkam, Chennai 600034.
- 4.The Joint Commissioner / Executive Officer
A/M Kabaleeswarar Temple, Mylapore
Chennai-4.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for a writ of mandamus directing the Joint Commissioner / Executive Office, A/M Kabaleeswarar Temple, Mylapore, Chennai, the 4th respondent herein not to proceed with further construction of any building in the land bearing No.15, Sannadhi Street, Mylapore, Chennai-4, pending disposal of the RP No.7/2017 on the file of the Secretary to Government, Tamil Development and Religious Endowment and Information Department, Fort St George, Chennai-9, the 1st respondent herein.

For Petitioner : Mr.W.C.Thiruvengadam
For Respondents : Mr.M.Maharaja, Spl.GP{HR&CE}

ORDER

By consent, the writ petition is taken up for final disposal. Mr.M.Maharaja, learned Special Government Pleader {HR&CE} accepts notice on behalf of the respondents.

2 The facts leading to the filing of this writ petition have been narrated in detail and in extenso in the order dated 03.05.2016 in RP.No.115/2016-D2 passed by the 2nd respondent herein and therefore, it is not necessary to re-state the facts once again except to narrate the facts necessary for the disposal of this writ petition.

3 Mr.W.C.Tiruvengadam, learned counsel for the petitioner would submit that against the dismissal of the revision petition filed by the petitioner before the 2nd respondent, the petitioner has filed a second revision before the 1st respondent u/s.114 of the Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959 [HR&CE Act] and pending disposal of the revision, has also filed a petition for stay and notice was issued only after six months from the date of entertainment of the revision and in the interregnum, the 4th respondent / Temple is urgently proceeding with the construction and therefore, prays for appropriate orders.

4 Per contra, Mr.M.Maharaja, learned Special Government Pleader {HR&CE} appearing for the respondent would submit that the petitioner did not comply with the proceedings of the 4th respondent dated 08.12.2011 in Na.Ka.No.535/2009/Aa5 and pursuant to the fund provided by the Government, the 4th respondent / temple is putting up construction and in the event of grant of interim orders, it would be halted in midway and on account of the spiralling cost of inputs in respect of building materials, the 4th respondent / temple will be definitely be put to great hardship and financial loss and would further contend that the revision petition itself may be directed to be disposed of by the 1st respondent / Government at an early date.

5 In response to the said submission, the learned counsel for the petitioner would submit that since the petitioner has filed a petition for stay pending revision before the 1st respondent / Government u/s.114[2] of the HR&CE Act, appropriate direction may be given to the 1st respondent to take up the stay petition and give a disposal in accordance with law.

6 The Court has considered the rival submissions and also perused the typed set of documents.

7 Though the petitioner has prayed for a larger relief, this Court, in the light of the rival submissions and the facts and circumstances and without going into the merits of the claim projected by the petitioner, directs the 1st respondent to take up the petition for stay and give a disposal in accordance with law, after putting on notice, the 4th respondent / temple and pass orders within a period of four weeks from the date of receipt of a copy of this order and it is also open to the 1st respondent to take up the main revision itself and give a disposal in

accordance with law, within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner as well as to the 4th respondent / Temple.

8 The writ petition stands disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary to Government of Tamilnadu
Tamil Development Religious Endowment
& Information Department, Fort St George
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- 4.The Joint Commissioner / Executive Officer
A/M Kabaleeswarar Temple, Mylapore
Chennai-4.

+1cc to Mr.W.C Thiruvengudam, Advocate, S.R.No.16117
+1cc to the Government Pleader, S.R.No.16951

RJ(CO)
EU 23.3.17

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