IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.7.2017

CORAM :

THE HONOURABLE MR.JUSTICE NOOTY.RAMAMOHANA RAO
AND
THE HONOURABLE MR.JUSTICE M.DHANDAPANI

WRIT APPEAL NO.763 OF 2017 & CMP.NO.10511 OF 2017

J.Chakravarthy ...Appellant

Vs

1. The Commissioner, Hindu Religious & Charitable Endowments Department, Nungambakkam High Road, Chennai.

2. The Assistant Commissioner, Hindu Religious & Charitable Endowments Department, Villupuram.

3. The Inspector, Hindu Religious & Charitable Endowments Department, Ulundurpet.

4. The Secretary, State of Tamil Nadu, Department of Hindu Charitable Institution & Tamil Cuture, Secretariat, Chennai-9. ...Respondents

APPEAL under Clause 15 of the Letters Patent against the order dated 13.3.2017 made in W.P.No.2454 of 2012.

W.P.No.2454 of 2012:-Writ Petition filed Under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus forbearing the respondents from interfering with the peaceful administration and management of Sri Appandainatharswamy Temple, Thirunarungundram, by the petitioner herein, except by following the procedures contemplated under the Tamilnadu Hindu Religious and Charitable Endowments Act.

For Appellant : Mr.D.Ravichander

For Respondents : Mr.M.Maharaja, SGP

JUDGMENT

(Judgment was delivered by NOOTY.RAMAMOHANA RAO,J)

Heard the learned counsel for the writ petitioner – appellant and the learned Special Government Pleader accepting notice on behalf of the respondents.

2. Essentially, the dispute between the management of a Jain Temple and the Endowments Department centers around as to whether such an institution can be brought within the sweep of the Tamil Nadu Hindu Religious and Charitable Endowments Act. In fact, the learned Single Judge has not expressed any final opinion thereon, for the simple reason being that the relevant enquiry is not yet completed and that no finding has been arrived at by the Competent Authority in that regard and therefore, the issue is only at a preliminary stage. That was the reason why the learned Single Judge has adverted to the view of both sides on the issue and prima facie, felt it fair and reasonable to impose certain safety clauses in the administration of the Temple.

3. We have also perused the conditions imposed by the learned Single Judge in paragraph 11 (a) to (e). In fact, we are of the opinion that the following additional condition also ought to have been imposed by the learned Single Judge and accordingly, we impose the following additional condition, which can be read :

"(f) in paragraph 11 of the order of the learned Single Judge :

The writ petitioner shall not, in any manner, encumber the movable and immovable properties belonging to the Temple and shall not enter into any lease/mortgage/hypothecation/arrangement/ agreement for any amount beyond Rs.25,000/-."

4. The quarrel of the writ petitioner raised with regard to the order passed by the learned Single Judge, if we may reduce the contention urged before us, is thus :

"When the learned Single Judge used the expression 'after informing the Tamil Nadu Hindu Religious and Charitable Endowments Department', the respondents are misconstruing it as a necessity to seek prior permission".

5. We are clearly of the opinion that there is a well-marked distinction between prior information being passed on to the officials of the Tamil Nadu Hindu Religious and Charitable Endowments Department of the Government and seeking their prior permission.

6. The learned Special Government Pleader would completely agree that the Department also has not misconstrued the expression used by the learned Single Judge meaning as seeking prior permission from the Departmental officials.

7. Therefore, the apprehension entertained by the writ petitioner - appellant is not a genuine one and it is illusory. This apart, even when a major festival or any developing exigency or any major expenses is required to be incurred, the learned Single Judge has not refrained the writ petitioner from carrying on such activities. All that he insulated is by adding a rider that the same shall be carried out along with the jurisdictional Inspector. Hence, we see no justifiable reason to entertain this writ appeal.

8. Accordingly, the above writ appeal stands dismissed. No costs. Consequently, the above CMP is also dismissed.

Sd/-
Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

To
1.The Commissioner,
Hindu Religious & Charitable Endowments Department,
Nungambakkam High Road, Chennai.

2.The Assistant Commissioner,
Hindu Religious & Charitable Endowments
Department, Villupuram.

3.The Inspector,
Hindu Religious & Charitable Endowments Department,
Ulundurpet.

4.The Secretary,
State of Tamil Nadu, Department of Hindu Charitable
Institution & Tamil Cuture, Secretariat,
Chennai-9.
+1cc to Mr.D.Ravichander, Advocate Sr. 49197

WA.No.763 of 2017 &
CMP.No.10511 of 2017

SS(CO)
VR(27/07/2017)