

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2017

C O R A M

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Writ Petition No.7299 OF 2004 and
W.V.M.P.Nos.595 and W.P. M.P.8620 of 2004

A/m.Dhenupuriswarar Thirukoil
rep. by its Executive Officer
Madambakkam,
Chennai-600 073.

... Petitioner

Vs.

1. Director General,
Archaeological Survey of India,
New Delhi 110 011.

2. Superintending Archaeologist,
Archaeological Survey of India,
Chennai Circle,
Fort St. George,
Chennai-9.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent culminating in the Auction Notice No.4/16/Ms/87/M/1148 dated 09.03.2004 issued by the 2nd respondent as published in Dinathanthi dated 14.03.2004 and quash the same and forbear the respondents from auctioning the rights in respect of 4 wheeler and 2 wheeler parking and footwear shop on Easwaran Koil Street, Madambakkam in front of the petitioner temple.

For petitioner : Mr.A.S.Kailasam
For respondents : No Appearance

O R D E R

The Writ Petition has been filed to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent culminating in the Auction Notice No.4/16/Ms/87/M/1148 dated 09.03.2004 issued by the 2nd respondent as published in "Dinathanthi" dated 14.03.2004 and quash the same and forbear the respondents from auctioning the rights in respect of 4 wheeler and 2 wheeler parking and footwear shop on Easwaran Koil Street, Madambakkam in front of the petitioner temple.

2. The brief facts of the case are as follows:

(a) The petitioner is the Executive Officer of the Temple famously known as ''Dhenupuriswarar Alayam'' and that in the year 1995, the Central Government, by Notification, proposed to notify the petitioner Temple under Section 4 of the Ancient Monuments Archaeological Sites and Remains Act, 1958 and the same was published in the Gazette of India Extraordinary on 24.08.1995. Though the petitioner temple did not question the preliminary notification, the Central Government notified the petitioner temple situate in Survey No.705/1 (Part) and Survey No.705/8 (Part) from the Garden as a protected monument and declared the same as an Ancient Monument of National Importance in the Gazette of India Extraordinarily dated 18.04.1996. Though the temple was notified under the Act, the religious institution is under the control of the Hindu Religious and Charitable Endowment Act and Hundis have been kept in the temple premises and daily poojas are conducted. Consequently, the department has appointed an Executive Officer.

(b) Even after the notification by the Archaeological Department, the petitioner temple continued letting out on a licence basis, the right to pluck the coconuts and the right to run a shop to keep footwear, the right to run a parking area to park 4 wheelers and 2 wheelers from time immemorial. Suddenly, the 2nd respondent started interfering with the same and prevented the petitioner from collecting money for the above said facilities. After successful prevention, the 2nd respondent issued an Auction Notice dated 9.3.2004 and the same is published in the ''Dinathanthi'' on 14.03.2004 calling for tenders to maintain the Shoe Keeping Centre and 4 Wheeler and 2 Wheeler Parking.

3. After entertaining the Writ Petition, this Court granted an interim stay on 23.03.2004. Subsequently, the respondents filed a Vacate Stay Petition in WMP.No.595/2004. In the Vacate Stay Petition, this Court directed the Archaeological Department to go ahead with the auction proceedings, if necessary, by publishing the necessary auction notice and in the event of the writ petition being allowed, the argument of the income can be decided later.

4. It is relevant to note that though the petitioner temple did not make any objection regarding the steps taken by the Archaeological Department, once the Notification issued by the Archaeological Department accepting conducting Poojas and for maintaining the Shoe Keeping Centre and 4 Wheeler and 2 Wheeler Parking, the Archaeological Department has power to regulate the Shoe Keeping Centre and 4 Wheeler and 2 Wheeler Parking. It is subsequently, the State Government decided not to collect any amount for Shoe Keeping Centre and Parking. Hence, the petitioner temple has no grievance because of the

subsequent decision taken by the State Government. Therefore, nothing survives in the Writ Petition.

5. In the result, the Writ Petition is closed. No costs. Consequently, connected Miscellaneous Petitions are also closed.

-s/d-
Assistant Registrar (CCC)

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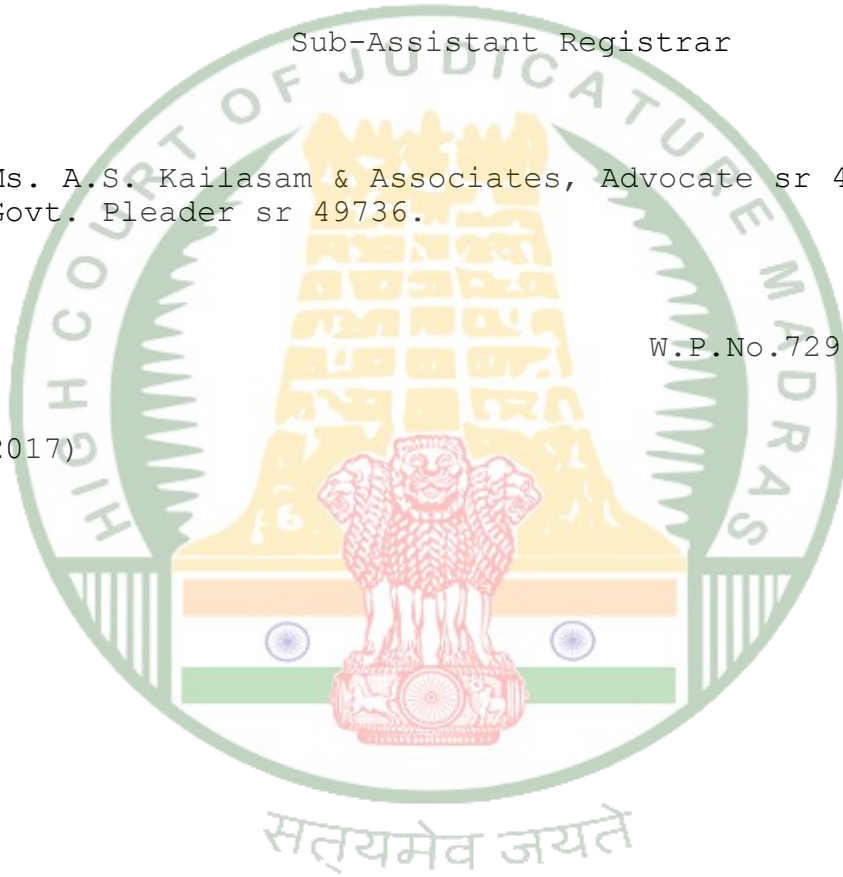
Sub-Assistant Registrar

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+1 CC to Ms. A.S. Kailasam & Associates, Advocate sr 49585
+1 CC to Govt. Pleader sr 49736.

W.P.No.7299 of 2004

SR(CO)
sp(07/08/2017)



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