



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.12.2017

CORAM:

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD)No.12459 of 2017 and
WMP(MD)No.9606 of 2017

Arulmighu Shri Muthumariamman Thirukovil,
Rep.by its Executive Trustee,
A.Vedan, Duvakkudy Malai,
Thiruvarambur Taluk,
Trichy District - 620 022.

... Petitioner

Vs.

1. The Commissioner,
Hindu Religious and Charitable Endowment Department,
Nungambakkam, Chennai - 34.
2. The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Trichy.
3. The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Trichy.
4. The Inspector,
Hindu Religious and Charitable Endowment Department,
Trichy - East, Trichy.
5. S.Hemavathy
Thakkar (Fit Person)
Arulmighu Shri Muthumariaaman Thirukovil,
Duvakkudy, Thiruvarambur Talkuk,
Trichy District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for records on the file of 2nd Respondent relating to the impugned proceedings dated 22.6.2017 in Se.Mu.Na.Ka.No. 6116/2017/Aa1 and quash the same as illegal, violative of Section 46 of HR and CE Act, 1959, violation of Principles of Natural Justice and consequently forbearing the Respondents from interfering with the activities of the Poyar and Uppiliya Naicker Community people relating to the Arulmighu Sri Muthumariamman Thirukovil.



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For Petitioner : Mr.Veera Kathiravan, Senior Counsel
for Mr.V.Muthuvelan
For Respondents 1-3 : Mr.M.Alagathevan
Special Government Pleader
For Respondents 4 & 5 : Mr.N.S.Karthikeyan,
Additional Government Pleader

ORDER

This writ petition has been filed, seeking a Writ of Certiorarified Mandamus, to quash the impugned proceedings dated 22.6.2017 in Se.Mu.Na.Ka.No. 6116/2017/Aa1, as illegal, violative of Section 46 of HR and CE Act, 1959, violation of Principles of Natural Justice and consequently, to forbear the respondents from interfering with the activities of the Poyar and Uppiliya Naicker Community people relating to the Arulmighu Sri Muthumariamman Thirukovil.

2.By consent, the writ petition is taken up for final disposal at the stage of admission itself.

3.The learned counsel for the petitioner would submit that the temple in question was founded by two community people and it has been managed by the Executive Committee, selected among the said two community people. The HR & CE Department earlier, proposed to appoint the Trustees for the temple and the same was challenged in O.A.No.57 of 1994, which was subsequently, dismissed for default on 30.06.2005. While so, the second respondent has issued proceedings, dated 22.06.2017, appointing a fit person (Thakkar), on the allegation of mismanagement, without issuing any notice to the existing Executive Committee. Hence, the petitioner prays to quash the impugned order and seeks appropriate direction to the respondents.

4.On the contrary, the learned Special Government Pleader appearing for the respondents 1 to 3, on instructions submitted that the proceedings, dated 22.06.2017 came to be issued, only because of some illegalities/irregularities found in the temple.

5.Where as, the learned counsel for the petitioner submitted that the impugned order came to be passed by the second respondent on her own, without affording any opportunity of personal hearing to the petitioner, which is violative of principles of natural justice.

6.Heard Both sides.

7. Though several grounds are raised in the writ petition, the main contention of the petitioner is that the principle of *Audi Aletram partem*, necessarily has to be applied with and without hearing the petitioner, the impugned order came to be passed by the second respondent, independently and hence, he prays for allowing

this writ petition.

8. Now, after some arguments, both the parties agreed to have the matter remitted back to the authority for fresh consideration.

9. It is seen that the impugned order has been passed without hearing the petitioner, which is unsustainable in law. Hence, the impugned order is set aside and the matter is remitted back to the second respondent, who, in turn, is directed to consider the matter afresh and pass appropriate orders, on merits and in accordance with law, after affording due opportunity of hearing to the petitioner as well as all the interested parties, within a period of six weeks from the date of receipt of a copy of this order.

10. The writ petition is allowed in the above terms. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Commissioner,
Hindu Religious and Charitable Endowment Department,
Nungambakkam, Chennai - 34.
2. The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Trichy.
3. The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Trichy.
4. The Inspector,
Hindu Religious and Charitable Endowment Department,
Trichy - East, Trichy.

+ 1 CC TO Mr.V.MUTHUVELAN, ADVOCATE IN SR No. 92590
+ 1 CC TO Mr.N.S.KARTHIKEYAN, ADVOCATE IN SR No. 92409

DSK

TE/SV-MMS/SAR-3 : 05/01/2018 : 3P/7C

ORDER MADE IN
W.P (MD) No.12459 of 2017
12.12.2017