

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-12-2018

CORAM

THE HON'BLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.13973 of 2004

Sri Sundara Vinayagar
Sri Selva Vinayagar and
Sri Anjaneyaswami Devasthanams,
Represented by its Chairman,
Board of Trustees,
U.Purushothaman,
S/o.Umapathy,
Having Office at No.87,
Royapettah High Road,
Mylapore,
Chennai-600 004.

... Petitioner

Vs

The Joint Commissioner,
Hindu Religious and Charitable Endowments
(Administration) Department,
Uthamar Gandhi Salai,
Nungambakkam,
Chennai-600 034.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records from the respondent herein pertaining to Notice dated 7.5.2004 made in R.C. No.3496/2004 A.2 and quash the said notice.

For Petitioner : Mr.K.Dhanasekaran for
Mr.R.Agilesh

For Respondent : Mr.M.Maha Raja,
Special Government Pleader (HR&CE)

O R D E R

The notice issued by the respondent dated 7.5.2004 for initiating action in respect of the Audit Report, is under challenge in this present writ petition.

2. The learned counsel, appearing on behalf of the writ petitioner-temple, states that the very issuance of the notice is untenable on the ground that the writ petitioner is not answerable for the Department in respect of the alleged Audit Report.

3. This Court is of an opinion that the temple is now said to have been designated as 'Denomination Temple' and further, it is contended that there is a Civil Court Decree in favour of the writ petitioner. However, this Court is of an opinion that all such facts and details and the documents are to be submitted before the Competent Authority/respondent and the Competent Authority is bound to consider all those documents, take a decision and pass orders on merits and in accordance with law.

4. No writ petition can be entertained against the notice in a routine manner. Judicial Review against such notices are limited. A writ against such notices can be entertained only if the same is in violation of the statutory rules in force or the authority issued has no competency or if an allegation of mala fides are set out in the affidavit. Even in case of raising the allegation of mala fides, the authorities against whom such an allegation is raised to be impleaded as a party respondent in the writ proceedings in his personal capacity. In the absence of any of these grounds, no writ can be entertained against any notice.

5. The writ petitioner-temple has to submit their explanations/objections and relevant materials before the Authorities Competent, enabling the respondent to consider the case on merits and in accordance with law.

6. In this view of the matter, the writ petitioner-temple is at liberty to submit all the documents, explanations and relevant materials before the respondent for the purpose of considering their case on merits and pass orders in accordance with law.

7. With the above observations, the writ petition stands disposed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

Svn

To

The Joint Commissioner,
Hindu Religious and Charitable Endowments
(Administration) Department,
Uthamar Gandhi Salai,
Nungambakkam,
Chennai-600 034.

+1 cc to Mr.N.Mani Narayanan, Advocate, S.R.No.84820

+1 cc to the Special Government Pleader, S.R.No.85003

WP No.13973 of 2004

MP (CO)
SSM(11/01/2019)



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