BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 16.02.2018
CORAM:
THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P(MD)No.3172 of 2018

R.Paramasivam .. Petitioner

Vs.

1.The Commissioner,
HR & CE Department,
Chennai.

2.The Joint Commissioner,
HR & CE Department,
Trichy.

3.The Assistant Commissioner,
HR & CE Department,
Pudukkottai.

4.The Executive Officer,
Veeramakaliamman Temple,
Aranthangi & Taluk,
Pudukkottai District. .. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to appoint Archagar or Poosari in the Arulmigu Kasiviswanathar Temple, Edaiyankottai Village, Aranthangi Taluk, Pudukkottai District, by fixing salary to him and also direct the respondents to take appropriate action for collecting the arrears of lease amount from the lessee of aforesaid temple lands by considering the petitioner's representation, dated 11.11.2017.

For Petitioner : Mr.K.Baalasundharam

For R-1 to R-3 : Mr.A.K.Baskarapandian, Special Government Pleader

For R-4 : Mr.G.Mathavan

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

By consent, the main writ petition itself, is taken up for final disposal.

2. This Writ Petition styled as a 'Public Interest Litigation', is filed by a resident of Vadukadu, Melapattu Post, Aranthangi Taluk, Pudukkottai District, stating among other things that there is a Temple, namely, 'Arulmigu Sree Kasi Viswanathar Temple' at Edaiyankottai Village, Aranthangi Taluk, Pudukkotai District and it is a very old Temple having stone inscriptions of 15th Century and the Temple owns vast extent of lands in Melamangalam Village, Karunkuzhikadu Village and in other surrounding villages and there are presiding deities, namely, Lord Shiva and Lord Vishnu in the Temple and according to the petitioner, it is an example of unification of 'Saivaite' and 'Vaishnavaite' sub-sects of Hindu Religion.

3. The grievance expressed by the petitioner is that for a long time, 'Consecration (Kumbabishekam)', has not been performed and in fact, there is no 'Archagar' (Priest) is available, even to conduct at least one time pooja everyday and that apart, the vast extent of lands owned by the Temple are also under encroachment and in this regard, he has submitted a representation, dated 27.09.2017 followed by a reminder dated 11.11.2017 and despite the receipt and acknowledgment, no action is forthcoming from the officials and hence, came forward to file this Writ Petition.

4. Mr.K.Baalasundharam, learned counsel appearing for the petitioner, has drawn the attention of this Court to the typed set of documents and would submit that on account of the indifferent attitude exhibited by the officials, the century old Temple is getting ruined and not even 'Archagar' has been posted to conduct, at least one time pooja everyday and that apart, the vast extent of lands are also under encroachment and are continuously sold and though the said fact was brought to the knowledge of the concerned officials, no steps have been taken so far and therefore, left with no other option, the petitioner is constrained to file this Writ Petition.

5. Mr.A.K.Baskarapandian, learned Special Government Pleader accepts notice on behalf of respondents 1 to 3 and would submit that inspection of the Temple will be done and the grievance expressed by the petitioner will be properly addressed and proper response will be given.

6. This Court heard the rival submissions and perused the materials placed before it.

7. A single Judge of this Court in the order dated 12.02.2018 passed in W.P(MD)No.16833 of 2017, has considered the issue of retrieval of temple lands and to conduct public auction to lease out the temple lands and comprehensive directions have been given and it is relevant to extract Paragraph Nos. 7 to 20 of the said order.

"7. The learned Special Government Pleader appearing for the respondents 1, 2, 18 and 19 submitted

that based on the complaint, an enquiry has been initiated and appropriate action will be taken depending upon the outcome of the enquiry. In so far as fixation of fair rent, the procedure contemplated under Section 34A will be followed.

8. I have considered the rival submissions and perused the materials available on record.

9. At the outset, an objection was raised by the counsel for the 3rd respondent that the petitioner has filed the writ petition with ulterior motives as the encroachments made by the petitioner was removed at the instance of the respondents, the present writ petition came to be filed and hence the writ petition ought not to be entertained. This court is not in consonance with the contention as the fact of encroachment can be brought to the knowledge of the officials concerned by any person. The Hon'ble Apex Court in A.A.Gopalakrishnan v. Cochin Devaswom Board and others [2007 (7) SCC 482] held that "the Government, members or trustees of boards/trusts, and devotees should be vigilant to prevent any such usurpation or encroachment. It is also the duty of the courts to protect and safeguard the properties of religious and charitable institutions from wrongful claims or misappropriation." Irrespective of the motive of the informant, the truth in the allegations are to be looked into. As the Thirukkural "Yepporul Yaryar vai ketpinum apporul meiporul kanbathu Arivu" (எப்பொருள் யார்யார் வாய் கேட்பினும் அப்பொருள் மெய்பொருள் காண்பது அறிவு*[) states, it does not matter who is saying, it is only what is said, is true or not that matters. Hence, such contention is rejected.*

10. Relying upon the Judgment of the Hon'ble Division Bench in V.Angu v. The Commissioner, H.R & C.E. Department reported in 2016 (2) CWC 731, it has been contended that the provisions of HR & CE Act is not applicable and only the provisions of Tamil Nadu Public Trusts (Regulation of and Administration of Agricultural Lands) Act, 1961 is applicable and therefore, as per Rule 16 of the Religious Institutions (Lease of Immovable Property) Rules, 1963 and Section 2 (5) and 2 (25) of the Tamil Nadu Public Trusts (Regulation of and Administration of Agricultural Lands) Act, 1961, the property cannot be brought for auction.

11. From the perusal of the records, though the Respondent 3 to 17 have obtained orders from the Revenue Tahsildar/ Record officer under the Tamil Nadu Agricultural Lands Record of Tenancy rights Act, 1969, it appears that no final record of tenancy rights were published in the Tamil Nadu Government Gazette as contemplated under Section 3 of the Tamil Nadu Agricultural Lands Record of Tenancy rights Act, 1969 and only temporary/miscellaneous rent receipts are continued to be issued in the name of erstwhile lessees, who admittedly have lost possession. The petitioner has produced certain photographs which show that there is no cultivation whatsoever by the respondents employing their own physical labour or that of their family members. Therefore, it is clear that the status of the respondents 3 to 17 was never approved and recognized by the 18th respondent. Therefore, this Court is of the view that the respondents 3 to 17 would not come within the definition of "Cultivating Tenants" and hence the protection under the Tamil Nadu Public Trusts (Regulation of and Administration of Agricultural Lands) Act, 1961 will not be applicable to them and the judgment of the Hon'ble Division Bench in V.Angu's case (Supra) will not be of any assistance to them.

12. Further, in that case, without bringing the tenancy to end, the properties were sought to be auctioned without any opportunity. In the present case, there is nothing on record to show that there is any agreement between the respondents 3 to 17 and the 18th respondent. As per section 78, the term "encroacher" shall mean any person who unauthorisedly occupies any tank, well, spring or water course or any property and who is in occupation of the property without the approval of the competent authority. There is nothing on record to show that the tenancy of the respondents 3 to 17 has been approved by the Commissioner by following the due procedures under Section 34. Just because, rents are collected by the temple, the status of the tenants for more than 5 years cannot be legal, unless there is an approval from the 18th respondent and the respondents are able to produce materials that they were in-fact cultivating in the said lands. Also as pointed out, the rental receipts produced on behalf of the respondents 3 to 17, disclose that they are only temporary or miscellaneous receipts and surprisingly, they have been issued to various persons. Therefore, this court is of the view that no rights would accrue to respondents 3 to 17. Also there is a ceiling to the extent of lands that can be held by any cultivating tenant under Section

2 (6) of the Tamil Nadu Public Trusts (Regulation of and Administration of Agricultural Lands) Act, 1961 and the total extent of land in any capacity held by them cannot exceed the ceiling limits of 5 acres and whenever, it exceeds the ceiling limit and protection under the Tamil Nadu Public Trusts (Regulation of and Administration of Agricultural Lands) Act, 1961 is not applicable to them and the land would have to revert back to the trust as per section 7 and the trust could lease them out to others.

13. The Tamil Nadu Public Trusts (Regulation of and Administration of Agricultural Lands) Act, 1961 grants certain protection to the cultivating tenants. For the act to apply, the persons claiming any right under the Act must establish that they are in fact cultivating and that they obtained possession by lawful means. Section 14 A (1) (iv) of the Act also grants special powers to the authorized officer under the Act to take steps if the trustee fails to evict any person not being a cultivating tenant and in occupation of the land without proper authority from such public trust. Therefore, approval from the 18th respondent being the custodian of the temples and temple properties is must even as per the provisions of The Tamil Nadu Public Trusts (Regulation of and Administration of Agricultural Lands) Act, 1961. This Court has already concluded by pointing out to the rental receipts that the receipts produced do not stand in the name of the respondents 3 to 17 despite their claim that their status as tenants has been approved by the Revenue Tahsildar/Record Officer and that they have not obtained the sanction of the 18th respondent much less to continue beyond 5 years. Therefore, under the circumstances, this court holds that the provisions of HR & CE Act and the Rules framed there under including the Religious Institutions (Lease of Immovable Property) Rules, 1963 would be applicable.

14. It is the one of the grievances of the petitioner that the respondents 3 to 17 have been paying meagre amounts to the temple for the past 25 years and hence, the very object of leasing out the temple properties to the third parties was defeated. The contesting respondents have also expressed their willingness to pay the market rents. In case of fixation of fair rent to the properties of the temples falling under the HR & CE Act, the procedure contemplated under Section 34 A is to be followed and as per Rule 2, Religious Institutions (Lease of Immovable Property)

Rules, 1963, the properties shall be let out by way of public auction.

15. In the opinion of this Court, the properties of the religious institutions, more particularly, the temple properties have to be maintained properly in order to derive more income to spend for the betterment of the temples.

16. The custodians of the temple properties be it the trustees or the HR & CE department must keep in mind the object and the reason behind such donations to the temple. The endowments are created and lands are donated in love, in faith and in satisfaction towards the one's contribution to the religion they profess, for the temples to be self-sufficient to perform all every day rituals, to ensure that people who profess and practice the same ideology and belief are uplifted economically and spiritually and for the subsistence of their religion. Section 23 of the HR & CE Act specifically lays down the powers and duties of the commissioner in respect of temples and religious endowments. A duty is cast on the commissioner to ensure that such temples and endowments are properly administered and that their income is duly appropriated for the purposes for which they were founded or exist. Therefore, whenever any order is passed, the object of the endowment is not to be forgotten. Section 29 of the Act lays down the preparation of register for all institutions by the commissioner.

17. One of the noble objects behind the donation of the properties/lands in favour of the temples, is only to protect the temples and to enable it to survive for several long years along with the heritage and culture of our lands to the future generation. Throwing to winds, the temple properties/lands are being misappropriated and mishandled by the persons who themselves are there to protect the same and it is very pertinent to point out that if the properties/lands belonging to the temples in our State are properly maintained, then the revenue/income being derived therefrom would be more than surplus and there would be no need for the State to look after the affairs of the temples/religious institutions.

18. Unfortunate, it is, for this Court to observe that none of the properties/lands belonging to the temples/religious institutions in our State are being properly maintained to achieve the noble objects for *which they were donated by our ancestors in the names of the temples. The Hindu Religious and Charitable Endowment Department, being the authority to regulate the affairs of the public religious institutions/temples in the entire State, ought not to shirk its responsibility from being the guardian of the properties belonging to the religious institutions/temples in the State, as happened in the case on hand.*

19. In similar circumstances, this Court, in V.Thiagarajan (died) v. The State of Tamil Nadu reported in 2015 (1) CWC 189, has heavily come down on the temple authorities who failed to manage the temple properties properly and issued several directions for strict adherence and it is relevant to reproduce the relevant paragraphs as under:

"13. Here, is a case, where the petitioner knocked the doors of justice complaining encroachment of the temple lands by the political men. Any complaint relating to land grabbing, in particular, temple lands, would be a very serious issue. On those days, the lands were donated to the temples to ensure revenue to fulfil the day-to-day needs of the temple administration in celebrating the festivals throughout the year and to renovate the temples to stand for centuries. In case, the lands given to the temples are jeopardized, then, the ultimate object behind the donation made, would not be achieved any more.

14. Coming to the facts of the present case, this Court finds that it is the claim of the petitioner that the lands belonging to Arulmigu Subramaniya Swamy Thirukoil, Thiruparankundram, were illegally grabbed by the politically influenced persons, to the extent of 100 acres and the temple administration did not maintain any records to show the lands of the temple.

15. A perusal of the typed set of papers would apparently make it clear that Resumption Petition No.11580 of 1998 filed before the Revenue Divisional Officer, Madurai, was dismissed on 25.05.2009 and an appeal was also filed before the District Collector, in A.P.File.No.48433 of 2009, on 07.07.2009. Even after a lapse of five years, the said appeal petition has not been numbered, by the District Collector, which, would exhibit the attitude of the appellate authority in dealing with the temple lands.

16. Moreover, it is the main allegation of the petitioner that the records pertaining to the temple lands had not been properly maintained and therefore, the encroachers had been grabbing the temple lands, without any difficulty. Strict maintenance of the records would always help in preventing such illegal encroachments.

Though it was contended by the respondents 1 to 6 and the 11th respondent that the records are maintained properly, no materials were produced to alleviate the same. A series of letters were produced by the 3rd respondent in support of his contention that they had been taking steps to curb the land grabbing and alienation of the temple properties. The letters would only worsen the case of the respondents. After 19.01.1999, the Executive Officer had written a letter after 8 years i.e only on 22.11.2007. As per section 29 of the Hindu Religious and Charitable Endowments Act, 1959, (in short "the Act"), the 11th respondent is duty bound to maintain the registers containing all the particulars stipulated therein. Going by the scheme of the Act and the language used in Section 29 (1) (e) of the Act, the records must also contain particulars regarding the extent of land, the name of the person in service, the name of the person holding the lands either by service inams or lease, period of lease, the use to which the land has been put to and the income from the lands. The respondents must also effect periodical visit of the properties as contemplated under section 33 of the Act to ensure that only the lessees are in possession. Only if all the particulars are maintained, it will be possible to ascertain the value of the land and the fair rent. In the case on hand, it is seen that the records had not at all been maintained by the temple authorities and hence, the authorities are in the dark about the encroachments of the temple lands, by causing huge loss to the temple.

17. On facts, this Court finds that a resumption petition had been filed by the Executive Officer of the temple to retrieve the temple lands and it came to be dismissed by the Revenue Divisional Officer and consequently, an appeal was also preferred before the District Collector, but, the said appeal is still to be numbered. Hence, this Court is of the view that the temple authorities had not taken steps to retrieve the lands belonging to the temple. The word "atrocious" would fall short to describe the conduct of the respondents 1 to 6. The appeal was filed in 2009 and the same is yet to be numbered. The 4th respondent has either not understood the seriousness of the case or the staff under him may not have brought the filing of the appeal to his knowledge. If the case is later, the 4th respondent must immediately take steps against the concerned staff for having colluded with encroachers and third parties in delaying the numbering and hearing of the appeal. Apparently, the Service Inams can only be enjoyed and cannot be alienated. The purpose of granting service inams is mainly to utilize the income from the lands to satisfy the basic needs of the pujaris and the expenses *towards maintenance of the temple. There is a specific bar under section 34 of the Act against alienation without the approval of the commissioner. Any alienation in violation of section 34 is null and void. The commissioner has to call for objections and then pass an order sanctioning the sale by giving specific reasons and after the approval of the government. Money alone cannot be the criteria for according sanctions. In any case,no such permission was accorded in the instant case. The alienation in this case was not done by the trustees or the executive officer but by the beneficiaries under the grant. Indisputably, there is a condition in the grant forbearing alienation and therefore the beneficiaries under the settlement patta can never alienate the land. Once the service of the beneficiary is terminated, the land will have to be passed on the person in service. The only motive behind the delaying of the appeal is to be in possession and reap the profit as long as possible, as, in any case the appeal would have to be allowed in view of the settled proposition of law as laid down by the Honourable Apex Court in the decision relied upon by the learned Counsel for the petitioner, in Joint Commissioner, Hindu Relgious and Charitable Endowments, Administration Department v. Jayaraman and others reported in (2006) 1 Supreme Court Cases 257. The relevant paragraphs are extracted hereunder for ready reference:*

"7. It is seen that the claimants had got themselves appointed as hereditary trustees by applying under Section 63(b) of the H.R & C.E. Act. They could not thereafter shed their character as trustees of the temples holding the lands belonging to the temples at a subsequent stage at least without impleading the H.R & C.E. Department and the deities and without getting a valid adjudication of their right over the properties. It is clear that in spite of the necessity for impleading the H.R & C.E. Department being pointed out, the claimants made no attempt to implead the H.R & C.E. Department either before the Settlement Tahsildar or before the District Judge and consequently, the orders passed by the Settlement Tahsildar and by the District Court were clearly illegal and not b acted totally without bona fides in an attempt to corner the properties for themselves or at least to make undue gains for themselves by selling the properties. Such action would certainly not bind the deities or the H.R & C.E. Department. The High Court, representing the sovereign as parens patriae ought to have come down on the respondents herein and ought to have issued directions for the protection of the properties.

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11. It was contended that the purchase price had been deposited in a Fixed Deposit and so long as there is no failure on the part of the claimants to perform the services which they are liable to perform, there is no necessity to interfere with the transaction of sale effected by them. It is seen that going by the prevalent valuation and the market value as reported, the lands were sold for a meager price or that the sale deeds indicated only a meager price as consideration for the same with all that it implies. Such a transaction is clearly seen to be not in good faith. That the District Court proceeded to accept the value for which the property was being sold even without making an enquiry into the market value that the properties would have fetched at the relevant time while giving the permission for the sale, is shocking. The jurisdiction under Section 34 is advisory. The Court should have satisfied itself of the need for sale and the propriety of the sale proposed. The mere pleas that it was difficult to protect the property and that there was only meager income therefrom were by themselves not grounds to direct or permit the sale. 12. It is seen that there has been a clear attempt by the claimants to overreach the deities and the authorities under the H.R & C.E. Act, while managing the properties dedicated for the purposes of the temple, properties granted and managed by them in their capacities as poojaries, for the maintenance of the temples. The attempt has to be deprecated.

13. In the circumstances, we allow this appeal and setting aside the order of the High Court in Civil Revision Petition (NPD) No. 1684 of 2002 and that of the Principal District Judge, Dindigul in Trust Original Petition No. 44 of 2001, dismiss Trust Original Petition No. 44 of 2001 filed by the claimants. Consequently, the permission granted for the sale would also stand set aside and the sale effected by the claimants pursuant to such permission will be deemed void and would confer no right on the purchasers thereunder or on any one claiming under or through them. It is also clarified that the revised order of the Settlement Tahsildar under Act 30 of 1963 and the revised patta granted are not binding on the deities or on the H.R & C.E. Department. The appellant would be entitled to its costs both here and in the High Court."

Applying the above dictum of the Honourable Apex Court, the alienations made by the beneficiaries are void and not binding on the temple and the H.R & C.E Department. However, to prevent any future allegations regarding the violations of principles of natural justice, the appeal must immediately be taken on record and disposed by the

4th respondent within eight weeks after giving opportunity to all the parties concerned.

18. The effect of non-maintenance of records has not only resulted in alienation of service inams, but has also resulted in sub-leasing of the leased properties and extended tenure of the lesees. As stipulated in section 34, the lease of the property cannot be beyond five years. In the present case, the lessees have been squatting over the properties for more than five years by paying a meagre rent. A sub-lessee can only be termed as an encroacher. This court finds the contention of the respondents that it is the petitioner who has to give particulars regarding sublease as unreasonable. Entrusted with the administration of endowments of the temple, the respondents must not only be vigilant but also act with responsibility. The contention only further augments the case of the petitioner that the records are not maintained properly. Hence the respondents are directed to immediately identify the encroachers and evict them in accordance with Sections 78, 79 and 79-A of the Act. The main purpose of leasing out the properties is to generate income to the temple. Therefore after eviction, the lands must be leased out by conducting public auction. The upset rent in the auction shall be determined by following the procedure contemplated under Section 34-A of the Act. Ultimately, this Court finds that a roving enquiry has to be conducted regarding the non-maintainability of the records by the temple administration, as to the actual lands owned by the temple and appropriate action has to be initiated as against the erring officials.

19. Accordingly, the respondents 1 and 2 are directed to hold an enquiry as to the non-maintainability of the records by the temple authorities and take action in accordance with law as against the officials concerned in this regard. The Preamble of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 reads as follows:

"An Act to amend and consolidate the law relating to the administration and governance of Hindu Religious and Charitable Institutions and Endowments in the State of Tamil Nadu.

WHEREAS it is expedient to amend and consolidate the law relating to the administration and governance of Hindu Religious and Charitable Institutions and Endowments in the State of Tamil Nadu."

As evident, the main object of the Act is to maintain the endowments of Hindu Religious and Charitable Institutions. It is a separate Department under the control of the State Government and enormous expenditure is incurred towards salary of the various categories of *persons in the Department. This court, under the extra-ordinary jurisdiction under Article 226 cannot shut its eyes to the irregularity and permit the authorities to demean the object of the Laws and the provisions of the Act. Therefore, merely appointing officers and functioning without any responsibility will not serve any purpose. If any officer of the HR & CE Department acquires knowledge regarding any violation of any grant or inaction or undue favouritism towards any particular person, he must immediately inform the authority concerned or the Fit Person to take immediate steps against such person(s) committing the violation or the erring official(s). The income from the endowments of the institutions are maintained in separate accounts under the control of the State Government. There are many temples in the State which though are under the control of the HR & CE Department, are poorly maintained. The incomes of many such temples are so poor that the lighting of the lamps has itself become difficult. The 2nd respondent is directed to constitute a committee to look into the income of various temples under its control and pave a scheme so as to not only preserve the old temples but also to ensure that the daily rituals are carried out without any hindrance. Further, the respondents 1 and 2 are directed to issue circulars to the temple authorities, all over the State to keep maintaining the relevant records pertaining to the temple lands properly and to follow the guidelines to be framed thereunder, without any default, to cut at the root of land grabbing in future.*

20. Insofar as the appeal pending before the District Collector is concerned, this Court directs the fourth respondent to number the appeal filed by the temple administration as against the order dated 25.05.2009, passed in the Resumption Petition, if not already numbered and consider the appeal on merits and in accordance with law and dispose of the same as expeditiously as possible, not later than two months from the date of receipt of a copy of this order. It is made clear that the fourth respondent is at liberty to look into all aspects regarding the allegations of land grabbing in depth and hear all the parties concerned and pass appropriate orders, as per law.

21. In fine, this writ petition is ordered with the above directions. No costs."

20. Despite the directions of this Court as early as on 31/10/2014, no steps have been taken by the Commissioner of the HR & CE Department to constitute the committee and secure the interest of the temples in the State and its properties. Considering the facts and circumstances of *the case and in the capacity as parens patriae, this Court issues the following directions to the respondents:*

a. *The first respondent shall conduct an enquiry under section 78 in so far as related the property in this writ petition, after affording opportunity to the respondents 3 to 17, petitioner and other interested parties, if any, and pass orders within a period of four weeks from today;*

b. *The 18th respondent shall issue a public notice within two weeks by employing all the methods like publication in news papers, notice board of the temples, publication in their official website and in any form of print or media, intimating that the persons in possession of the temple lands to voluntarily pay the arrears of rent within four weeks from the date of issuance of such notice and upon such failure, appropriate action must be initiated under 34B of the HR & CE Act and recover/retrieve the properties;*

c. *The 18th respondent shall also constitute appropriate committees as contemplated under Section 34A of the HR & CE Act, to fix the market rents for all the properties and then make an offer to the existing tenants, if not enhanced recently. In case, the tenants accept the rent so fixed, they can be permitted to continue in the premises and upon failure to accept the rent, then steps must be taken forthwith to conduct public auction as contemplated under Rule 2 of the Religious Institutions (Lease of Immovable Property) Rules, 1963;*

d. *In case of service inams, clause (c) would not be applicable. However, the 18th respondent must ensure through his officers, that the property allotted as service inam is not parted to any third party and in any case, if any complaint is received from any party and found to be true, steps must be taken immediately to retrieve the property irrespective of the capacity of the person whether he is under service or not.*

e. *The 18th respondent shall within six weeks, file a report before this Court disclosing the details of the agreement entered by him with tenants for leasing out the temple lands and the sanction granted by him beyond five years with the copy of* *the approval obtained from the government and the report of objections from the trustees or interested parties as contemplated under Section 34 of The Hindu Religious and Charitable Endowments Act, 1959;*

f. The 18th respondent shall constitute a committee/committees for each territories/regions and direct the members to visit all the temples in Tamil Nadu, identify the lands belonging to and in the custody of the temple and in the hands of the third parties/encroachers whose possession has not been legally recognized and submit a report before this Court within six weeks from the date of receipt of a copy of this order,

g. Such committee shall also look into the period of arrears and the action taken by the Executive Officers/Joint Commissioners/Assistant Commissioners to recover the arrears and the properties from such defaulters. In cases, the officers have failed to collect the rent or initiate any action for recovery of the rent or to take steps to retrieve the properties belong to various temples in Tamil Nadu for a period of more than two months from the date of such default, action must be initiated against such erring officers;

h. Whenever the properties belonging to the temple are leased out, the 18th respondent must ensure that the sentiment of the donors and the object of such endowment is not defeated.

i. The 18th respondent shall send a communication to the trustees for various temples and collect the details of the properties under their custody and in illegal occupation of third parties, the properties leased by them with or without sanction and the list of cases pending in various courts and submit a report within four weeks from the date of receipt of a copy of this order; and

j. The income from the properties of the temples under the control of the H.R & CE department must be utilized only for the betterment of the temples as provided under Section 66 of the Act and scrupulously follow the same for the recitation of Divya Prabhandam and Thevaram, propagation of the religious tenants of the institution and establishment and maintenance of a University or *college or other institution, in which, the main features shall be the provision for the study of religion, philosophy etc. and the excess income shall be utilized for maintaining other temples in the State which yield less or no income and ensure that those temples are also maintained properly and the object of the donors to protect the temples are always adhered to."*

8. Direction Nos.f and I of the above said order, deals with the protection of properties and removal of encroachment. It is to be noted at this juncture that the first respondent is also a party to the said order being 18th respondent.

9. This Court taking into consideration the above facts and circumstances, directs the respondents 2 to 4, to consider the representation of the petitioner dated 11.11.2017 and the third respondent shall also cause inspection of the said Temple, for the purpose of finding out as to whether the said Temple is maintained properly and so also the rituals. The response in that regard shall be communicated to the petitioner by way of reply, by respondents 2 to 4, within a period of eight weeks from the date of receipt of a copy of this order.

10. The Writ Petition stands disposed of accordingly. No costs.

Sd/-
Assistant Registrar(AE)

/True Copy/

Sub-Assistant Registrar

To
1.The Commissioner,
HR & CE Department, Chennai.
2.The Joint Commissioner,
HR & CE Department, Trichy.
3.The Assistant Commissioner,
HR & CE Department, Pudukkottai.
4.The Executive Officer,
Veeramakaliamman Temple,
Aranthangi & Taluk,
Pudukkottai District.
+One cc to The Special Government Pleader, SR.No.49654
+One cc to M/s.K.Baalasundharam, Advocate, SR.No.49118
+One cc to M/s.G.Mathavan , Advocate, SR.No.49911
pm
RL/8C/15P/SV/MMS/SAR2/26/3/2018

ORDER MADE IN
W.P(MD)No.3172 of 2018

16.02.2018