



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 13.02.2018

CORAM:

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

and

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

W.P (MD) No. 982 of 2018

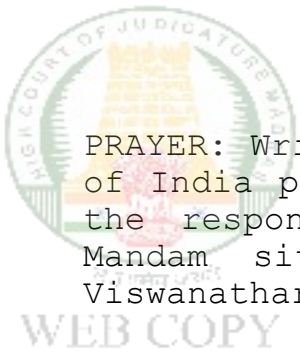
Kannan

.. Petitioner

Vs.

1. The Commissioner,
Hindu Religious & Charitable
Endowments Department,
Chennai.
2. The District Collector,
Thanjavur District,
Thanjavur.
3. The Joint Commissioner,
Hindu Religious & Charitable
Endowments Department,
Mayiladudurai.
4. The Assistant Commissioner,
Hindu Religious & Charitable
Endowments Department,
Kumbakonam,
Thanjavur District.
5. The Executive Officer,
Arulmigu Kasi Viswanathar Thirukovil,
Kumbakonam,
Thanjavur District.
6. P. Dhamodharan Namboothiriyar
7. G. Balasubramanian
8. S. Rajendran
9. Mottaisamy Thevar
10. V. Ramesh
(Respondents 6 to 10 are impleaded as per order
dated 13.02.2018 in W.M.P (MD) No. 2640 of 2018)

.. Respondents



PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, to direct the respondents to remove the shops in Chithi Vinayagar Temple Mandam situated at Mahamagam Kulam western side shore, Kasi Viswanathar Temple, Kumbakonam Town, Thanjavur District.

For Petitioner	: Mr.B.Anandan
For R-1 to R-4	: Mr.C.M.Mari Chelliah Prabu Additional Government Pleader
For R-5	: Mr.V.Chandrasekar

ORDER

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

The petitioner, who claims to be a Town President of 'Viswa Hindu Parisad' and a resident of Kumbakonam Town, came forward to file this Writ Petition styled as a 'Public Interest Litigation', stating among other things that the famous Temple namely, 'Arulmigu Chithi Vinayagar Kovil', which is a sub-temple of 'Arulmigu Kasi Viswanatharswami Temple', is located on the western side of 'Mahamaga Kulam' (Tank) and according to the petitioner, the practice is, the devotees, who are coming to Kumbakonam during 'Mahamagam festival', used to worship the God 'Chithi Vinayagar'.

2. The petitioner would aver that in 'Chithi Vinayagar Temple', a small 'Mandapam', is also attached and it is divided into six portions and six shops are located in the said 'Mandapam'. The grievance expressed by the petitioner is that the devotees, who are coming to Kumbakonam, do not like the location of the shops, which run right inside the 'Chithi Vinayagar Temple' and despite very many representations, submitted to remove the shops in question, no steps have been taken so far and hence, he is constrained to approach this Court by filing this Writ Petition.

3. This Writ Petition was listed for hearing on 18.01.2018 and on that day, the learned counsel appearing for the petitioner, undertook to implead the alleged allottees/licensees of the shops and subsequently, the petitioner has filed an impleading petition in W.M.P(MD)No.2640 of 2018 and it was ordered today.

4. The learned counsel appearing for the petitioner has drawn the attention of this Court to the photographs and would submit that the shops are located right inside the 'Mandapam', where the Idol of 'Chithi Vinayagar', is located and the devotees/worshippers, are extremely finding it difficult to enter into the said 'Mandapam' and to worship the God. According to the petitioner, the representation dated 11.12.2017, submitted to the concerned respondents has failed to invoke any kind of response and therefore, the petitioner came forward to file this Writ Petition.



5. Mr.M.Murugan, learned Government Advocate appearing for the official respondents has produced the letter of the Executive Officer (additional in-charge) of Arulmigu Kasiviswanathaswamy Thirukovil', addressed to the Joint Commissioner, Hindu Religious & Charitable Endowments Board, Mayiladurai, dated 25.01.2018.

6. A perusal of the letter of the Executive Officer, would disclose among other things that on the western side of 'Mahamaga Kulam' (Tank), one 'Mandapam' called 'Veventhi Mandapam', belongs to 'Arulmigu Kasiviswanatha Swamy Temple', is there and it is in Survey No.429 and in the said 'Mandapam', a small 'Vinayagar Idol' is located and it has been installed by the shop owners to augment their business and it is further stated in the letter that apart from the said 'Vinayagar Idol', in Survey No.429, shops bearing Door Nos.4 to 8, are located for more than hundred years and fair rent has also been fixed vide G.O.No.356 and location of the shops is not causing any hindrance and the Temple is also earning annual income of Rs.1,24,320/-.

7. The learned Government Advocate appearing for the official respondents would submit that during 'Mahamagam Festival', the shop owners have to seal the shops to have free access and the said arrangement is also going on very well and as on today, location of the shops, is not causing any hindrance to the use of the said Mandapam and depending upon the future needs, action would be taken, in accordance with law.

8. The learned counsel appearing for the fifth respondent apart from the said letter, has also filed a counter-affidavit, stating that the shops are situated in the aforesaid 'Mandapam' for a pretty long time and there is no complaint from any quarter at any point of time and during 'Mahamagam Festival', the shops are used to be sealed till the festival is over and during last year also, it was done so.

9. This Court heard the rival submissions made on either side and perused the materials placed before it.

10. In the light of the stand taken by the fifth respondent in the counter-affidavit dated 29.01.2018 as well as the letter dated 25.01.2018, addressed to the Joint Commissioner, Hindu Religious & Charitable Endowments Board, Mayiladurai, this Court is of the considered view that location of the shops on the western side of 'Mahamaga Kulam', is not causing any hindrance for the use of the aforesaid 'Mandapam' as of now. Further, the counter-affidavit of the fifth respondent also would disclose that during 'Mahamagam Festival', the shops are used to be sealed and only after the festival is over, those shops are allowed to be re-opened and as of now, location of the shops in question, is not causing any hindrance.



11. It is also made clear that the fifth respondent feels that any amount is due on account of default in payment of licence amount or any other infraction, the said official is at liberty to take action, in accordance with law.

12. This Writ Petition stands dismissed, subject to the above observations. No Costs.

Sd/-

Assistant Registrar(CSI)

/True Copy/

Sub-Assistant Registrar

To

- 1.The Commissioner,
Hindu Religious & Charitable Endowments Department,
Chennai.
- 2.The District Collector,
Thanjavur District,
Thanjavur.
- 3.The Joint Commissioner,
Hindu Religious & Charitable Endowments Department,
Mayiladudurai.
- 4.The Assistant Commissioner, Hindu Religious & Charitable
Endowments Department,
Kumbakonam,
Thanjavur District.

+One cc to Mr.B.Anandan, Advocate, SR.No.48402

+One cc to Mr.V.Chandrasekar, Advocate, SR.No.48003

pm

RL/7C/4P/CVC/SAR2/26/2/2018

ORDER MADE IN
W.P(MD)No.982 of 2018

13.02.2018