



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 26.10.2018

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

AND

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

W.A(MD)No.1465 of 2018

and

C.M.P(MD)No.10321 of 2018

P.Sundaralingam

.. Appellant/3rd Party

Vs.

1.A.Gopal

.. 1st respondent / petitioner

2.The District Collector,
Tirunelveli District,
Tirunelveli.

3.The Tahsildar,
Radhapuram Taluk,
Tirunelveli District.

4.The Superintendent of Police,
Tirunelveli District,
Tirunelveli.

5.The Inspector of Police,
Koodankulam Police Station,
Tirunelveli District.

6.H.Gurusamy

7.The Joint Commissioner,
Hindu Religious & Charitable Endowment Department,
Tirunelveli - 2.

..Respondents 2 to 7/Respondents

Prayer : Writ Appeal is filed under Clause 15 of the Letters Patent, to set aside the order dated 05.04.2017 passed in W.P(MD)No.13719 of 2010 on the file of this Court.

Prayer in WP(MD). 13719/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF CERTIORARIFIED MANDAMUS, to call for the impugned order and records in connection with Na.Ka.C3/30522/2010 dated 11-08-2010 passed by the 1st Respondent and quash the same and also consequently forbear the Respondents from interfering with the Petitioner involvement in managing and maintaining the temple viz Arulmigu Sri Badrakaliamman Temple, Koodankulam, Tirunelveli District on the basis of the Trust Deed having been registered as Document No.692 of 2008 dated 10-09-2008 and subsequently modified on 22-05-2009 on the file of the Sub



Registrar, Department of Registration, Radhapuram, Tirunelveli District.

For Appellant : Mr.P.Subbiah

For R-1 : Mr.S.Sankar

For R-2 to R-5 & R-7 : Mrs.J.Padmavathi Devi,
Special Government Pleader

JUDGMENT

[Judgment of the Court was delivered by
PUSHPA SATHYANARAYANA, J.]

This writ appeal is directed against the order dated 05.04.2017 passed in W.P(MD)No.13719 of 2010, wherein the impugned order dated 11.08.2010 passed by the District Collector, Tirunelveli District, was under challenge.

2. The said order was passed based on the complaint given by the writ petitioner. Based on the said complaint given by the writ petitioner, after enquiry, the District Collector / second respondent had found that the place where Sri Badrakaliamman Temple is situated is a poramboke land and it is a common public temple and it is open to the general public for worship and merely because, an Administrative Committee is formed, it will not bind everyone and therefore, rejected the complaint of the writ petitioner. Aggrieved over the same, the writ petitioner had challenged the said order.

3. It was the contention of the writ petitioner that he formed a Trust for management of the temple, which resulted in dispute between two groups of persons in the village. A peace committee meeting was also held on 13.04.2010 and the resolution of which also could not be followed. The writ petitioner had sought for cancellation of the resolution passed in the peace committee meeting and gave a complaint to the District Collector, which was also rejected.

4. The learned single Judge had *suo motu* impleaded the Joint Commissioner, HR & CE Department, Tirunelveli. As it is admitted that the temple is not a private temple and it is open to all the villagers to worship and that there is no Scheme framed under the provisions of the Tamil Nadu Hindu Religious and Charitable Endowment Act, 1959 and as it is also not noted as a listed temple, the learned single Judge had directed the Joint Commissioner to appoint a Fit Person and take over the management as well as the properties of the temple and ensure that the public are allowed to worship peacefully in the temple. Neither the writ petitioner nor the fifth respondent therein had challenged the said order. However, this writ appeal is now preferred by one Sundaralingam, a third party, claiming to be the President of Sri Padrakaliamman Kovil Administrative Committee.

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5. Now, it is stated that pursuant to the order of the learned



single Judge, a Fit Person had already been appointed. The claim of the appellant - Administrative Committee does not seem to be genuine. Because, even though the Committee has been formed as early as in the year 2010, it has not even cared to know the proceedings pending in the Courts with respect to the temple and it has not got impleaded in the writ petition. Hence, it appears that the claim of the Administrative Committee is not genuine and even otherwise, it has got no *locus standi* to challenge the appointment of the Fit Person as per Section 49 of the HR & CE Act, Trustees of the Appellant Committee was not appointed by the HR & CE Department.

6. In the light of the above, there is no merit in this writ appeal and the same is dismissed. It is open to the appellant to challenge the appointment of the Fit Person in the manner known to law. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/
Assistant Registrar(CS-III)

/True copy/

Sub Assistant Registrar(CS-II)

To:

- 1.The District Collector,
Tirunelveli District,
Tirunelveli.
 - 2.The Tahsildar,
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Tirunelveli District.
 - 3.The Superintendent of Police,
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Koodankulam Police Station,
Tirunelveli District.
 - 5.The Joint Commissioner,
Hindu Religious & Charitable Endowment Department,
Tirunelveli - 2.
- +1cc to Mr.P.SUBBIAH, Advocate, SR.No.92505
+1cc to Mr.S.SANKAR, Advocate, SR.No.92385
+1cc to M/s.Special Government Pleader,SR.No. 92783

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PM

KK/RP/SAR-2/06.12.2018/2P-9C

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