



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.12.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

and

THE HONOURABLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P.[MD]No.24275 of 2018

and

W.M.P.[MD]No.21961 of 2018

N.Venkatesh

: Petitioner

Vs.

- 1.The Additional Chief Secretary to Government,
Tourism and Hindu Religious Endowments Department,
St. George Fort,
Chennai.
- 2.The Joint Commissioner,
Hindu Religious Endowments Department,
Thanjavur.
- 3.The Superintending Archaeologist,
Archaeological Survey of India,
Chennai Circle,
Fort St. George,
Chennai-600 009.
- 4.The District Collector,
Collectorate,
Thanjavur.
- 5.The Conservation Assistant,
Archaeological Survey of India,
Thanjavur Sub-Circle Big Temple Complex,
Thanjavur-613 001.
- 6.The Assistant Commissioner/Executive Officer,
Thanjavur Palace Devasthanam,
No.1221, West Main Street,
Thanjavur-613 009.
- 7.The Art of Living Foundation,
Thanjavur.
[R-7 suo motu impleaded as per the order
of this Court dated 07.12.2018 in W.P.(MD)No.24275/2018]
: 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 cancel the permission granted to the private parties to install tent and conduct private program for a week from 07.12.2018 onwards in the Arulmigu Pragatheeshwarar Temple, Thanjavur, which is notified as world heritage site by UNESCO.



For Petitioner : Mr.S.Muthukrishnan for
Mr.V.Rajiv Rufus
For Respondents 1,2&4 : Mr.A.K.Baskarapandian,
Special Government Pleader
For Respondents NO.3,5 :Mr.V.Kathirvelu,
ASGI, Assisted by Mr.P.Subbiah,
CGSC
For R6 :Mr.V.Chandrasekar
For Respondent No.7 : Mrs.N.Krishnaveni,
Senior Counsel
for Mr.K.Ravi Anantha Padmanaban

WEB COPY

O R D E R

[Order of the Court was made by K.K.SASIDHARAN, J.]

INTRODUCTORY:

The permission given by the Archaeological Survey of India and the Assistant Commissioner, Thanjavur Palace Devasthanam, Thanjavur, to erect a temporary pandal at Arulmigu Pragatheeshwarar Temple, Thanjavur, for the purpose of conducting Bhajan by M/s.The Art of Living, Bangalore, on 15 and 16 December, 2018 and the possible damage to the historical structure, which is declared as a world heritage monument by UNESCO, prompted the petitioner to file this Writ Petition in *pro bono publico*.

THE BACKGROUND:

2. Arulmigu Pragatheeshwarar Temple, Thanjavur, was declared as an ancient monument within the meaning of Section 3 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958. Sri Rajaram Rajah Saheb, Hereditary Trustee of the Thanjavur Palace Devasthanam, entered into an agreement with the President of India through the Superintendent, Archaeological Survey of India, Government of India, to preserve the ancient monument. The Archaeological Survey of India, by virtue of the agreement dated 29 March, 1962, was declared as the owner of the ancient monument with a condition that the owner shall not destroy, remove, injure, alter, deface, imperil or misuse the monument or cause or permit any person to destroy, remove, injure, alter, deface, imperil or misuse the ancient monument. The Government of India agreed with the Hereditary Trustee of the Thanjavur Palace Devasthanam that they would not build or cause or permit any person to build on the site of the monument or within ten metres of the monument any kind of construction. There was a specific clause that the owner shall not hold or cause or permit any person to hold any meeting, reception, party, conference or any other entertainment except under and in accordance with the permission in writing granted by the Central Government.

<https://hcservices.ecourts.gov.in/hcservices/>

3. There is a clear indication in the agreement that the



permission to use the premises of the Temple shall be given in accordance with the custom and usage pertaining to the Temple. The owner of the monument was permitted to celebrate the festivals and other functions usually celebrated in the temple and its premises. The Government of India agreed not to demand any fee from the public for entry into or inspection of the monument. There was a mandate that the owner shall not allow any person to carry on copying or filming of the monument.

THE PRESENT LITIGATION:

4. The petitioner raised a larger question in this Writ Petition with regard to the misuse of authority by the officials of the Archaeological Survey of India and those who are entrusted with the upkeep and maintenance of the Hereditary Temple. We have, therefore, entertained the Writ Petition filed to restrain M/s.The Art of Living Foundation from conducting a conference inside the Temple Complex and restrained the organizers from organizing the function, taking into account the larger public interest. The order was duly complied with by M/s.The Art of Living Foundation by shifting the venue. The District Collector, Thanjavur, also ensured that the conference is not conducted, as scheduled.

5. The Superintending Archaeologist, Archaeological Survey of India, Chennai, and the Assistant Commissioner -cum- Manager, Thanjavur Palace Devasthanam appeared before us in person and produced the original records.

6. The records would indicate that M/s.The Art of Living, Vyakti Vikas Kendra, Tamil Nadu, submitted an application to the Commissioner, Hindu Religious and Charitable Endowments Department, Chennai, on 26 September, 2018, for the grant of permission to hold Vigyaan Bhairav Programme and more particularly, to hold a cultural and spiritual event with focus on Vigyaan Bhairav, an ancient book that describes the various meditation techniques taught by Lord Shiva to Goddess Parvathi. According to the organizers, the programme would include Satsangs (Musical Bhajans) all through the event. It was indicated that Gurudev Sri Sri Ravi Shankar, the founder of M/s.The Art of Living would conduct the event on 15 and 16 December, 2018.

7. The Commissioner, Hindu Religious and Charitable Endowments Department, forwarded the application to the Joint Commissioner for examination and sent a proposal as per the rules in vogue. Thereafter, the Assistant Commissioner, Thanjavur Palace Devasthanam, by letter dated 01 October, 2018, forwarded the request to the Archaeological Survey of India, for according permission to M/s.The Art of Living.

8. The Archaeological Survey of India, Chennai Circle, by proceedings dated 12 October, 2018, granted permission to erect temporary pandal at Sri Pragatheeshwarar Temple, Thanjavur, in



connection with the Bhajan mooted by M/s.The Art of Living, Bangalore, on 15 and 16 December, 2018. The permission was given with 14 conditions, which also includes a condition that no damage should be caused to any part of the monument.

9. In the meantime, M/s.The Art of Living Foundation, by letter dated 26 October, 2018, requested the Thanjavur Palace Devasthanam, to re-schedule the event and to hold the conference on 07 and 08 December, 2018.

10. The Assistant Commissioner, Thanjavur Palace Devasthanam, by order dated 31 October, 2018, made a recommendation to grant permission to M/s.The Art of Living for conducting the conference on 07 and 08 December, 2018.

11. The Archaeological Survey of India, by proceedings dated 05 November, 2018, accorded permission to erect temporary pandal/shamiana to conduct Bhajan by M/s.The Art of Living, Bangalore at Sri Pragatheeshwarar Temple, Thanjavur, subject to the very same terms and conditions laid down in the earlier proceedings dated 12 October, 2018. The Assistant Commissioner, Thanjavur Palace Devasthanam, by order dated 19 November, 2018, granted permission to M/s.The Art of Living for conducting the conference on 07 and 08 December, 2018, subject to certain conditions.

12. The Conservation Assistant, Archaeological Survey of India, Thanjavur, inspected the premises, after granting interim order by this Court restraining the organizers from holding the conference. The report submitted by the Conservation Assistant to the Superintending Archaeologist, Archaeological Survey of India, Chennai, indicates that the Art of Living Foundation erected a very big pandal with a huge size covering larger area in the Temple Complex. According to the Conservation Assistant, direction was immediately given to the Executive Officer, HR&CE, Palace Devasthanam, Thanjavur, to remove the pandal. The said letter appears to be a make belief affair to avoid public criticism that permission was granted to erect a pandal covering larger area inside the Temple complex.

THE CORE ISSUE:

13. The core question is as to whether the Archaeological Survey of India and the Palace Devasthanam were correct in granting permission to organize a conference inside the heritage temple by erecting a huge pandal to accommodate about 2000 people.

14. The Archaeological Survey of India placed reliance on Rule 7 of the Ancient Monuments and Archaeological Sites and Remains Rules, 1959, to justify its contention that the permission to erect the pandal and hold the conference was given, as it was an event connected with a religious practice. We are not in a position to agree with the submission made on behalf of the Archaeological



Survey of India.

15. The Statute and more particularly, the Ancient Monuments and Archaeological Sites and Remains Rules, 1959, very clearly provides that the permission should be in connection with a recognized essential religious practice. M/s.The Art of Living foundation has no case that the yoga is an essential religious practice. The Foundation, in order to make it appear as if it is not a yoga camp alone, included Bhajan as also an item of the programme.

16. The question is whether all kinds of religious practices would come within the definition "Recognized Religious Usage or Custom". There is a clear indication in Rule 7 that religious usage or custom must also be a recognized one. Mere religious usage or custom are not sufficient. It must be recognized as such by the religion. There should be primary evidence to show that there is a religious usage or custom and the same is a recognized one.

17. The Government of India is the custodian of the ancient monument. It is the bounden duty of the Government of India and the officials of the Archaeological Survey of India to protect and preserve the ancient monument. It is true that the monument could be used for religious worship and such other activities concerning the religion. There is no provision, which enables the Archaeological Survey of India, to grant permission to use the premises of an ancient monument for any other purpose, meaning thereby, a purpose which has nothing to do with the essential religious practice.

18. The learned Senior Counsel for M/s.The Art of Living Foundation submitted that earlier, a dance festival was conducted inside the complex. Similarly, the premises was given for cinema shooting. The Assistant Commissioner, who was present in Court, submitted that the dance festival was in connection with the temple festival. Similarly, he submitted that the cinema shooting was given on a particular location and at present, there is a ban and the Temple premises would not be given for cinema shooting.

19. There was a hue and cry from the people across the State on account of the unwise decision taken by the Archaeological Survey of India and the Palace Devasthanam to give the temple premises to a Foundation for holding a yoga conference. The attempt was thwarted by the petitioner in larger public interest. While appreciating the stand taken by M/s.The Art of Living Foundation to shift the venue, we are of the considered view that this case should be an eye-opener to the Archaeological Survey of India and the Thanjavur Palace Devasthanam.

20. The Government of India was expected to preserve the monument in accordance with the provisions of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 and the Ancient Monuments Preservation Act, 1904. The course of conduct adopted by the officials of the Archaeological Survey of India and the



Thanjavur Palace Devasthanam *prima facie* shows that they have no regard to the preservation of the ancient monument at Thanjavur, which attracts visitors across India and abroad.

DISPOSAL:

21. Since it is an ancient monument covered by the Ancient Monuments Preservation Act, 1904 and in view of the bilateral agreement dated 29 March, 1962 between Sri Rajaram Rajah Saheb, Hereditary Trustee of the Thanjavur Palace Devasthanam and the President of India and the heritage value of the Temple, we are of the view that appropriate directions should be issued to the Archaeological Survey of India and the Temple Devasthanam.

22. We restrain the respondents 1 to 6 from giving the premises of Arulmigu Pragatheeshwarar Temple, Thanjavur, for holding any kind of meetings of whatever name, except the activities in accordance with the recognized religious practices, custom and usage pertaining to the temple. Even for permitting the usage of the temple premises for the religious or customary practices, the officials of the Archaeological Survey of India and the Palace Devasthanam must ensure that such activities are part of the recognized essential religious practices or custom and no damage is caused to the ancient monument.

23. The Writ Petition is disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/
Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar (AS)

To

1. The Additional Chief Secretary to Government,
Tourism and Hindu Religious Endowments Department,
St. George Fort,
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2. The Joint Commissioner,
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Thanjavur-613 009.

+1cc to Mr.V.RAJIV RUFUS, Advocate, SR.No. 101355
+1cc to Mr.V.CHANDRASEKAR, Advocate, SR.No. 101366
+1cc to Mr.K.RAVI ANANDA PADMANABAN, Advocate, SR.No.101492
+2cc to Mr.P.SUBBIAH, Advocate, SR.No. 101332
+1cc to M/s.Special Government Pleader,SR.No.101634

Order made in
W.P.[MD]No.24275 of 2018
Dated: 20.12.2018

SML
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