



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 26.06.2018

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR
W.P(MD)Nos.12213 and 12214 of 2018

and

W.M.P.(MD) Nos.11109 to 11112 of 2018

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in W.P(MD)No.12213 of 2018

M.Ramesh

... Petitioner

vs

1.The Commissioner,
Hindu Religious and Charitable Endowments
Administration Department,
Nungambakkam,
Chennai - 34.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowments
Administrative Department,
Trichy.

3.The Assistant Commissioner,
Hindu Religious and Charitable Endowments
Administration Department,
Trichy.

4.The Executive Officer,
A/m Sapthakaneeswarar Temple,
Lalkudi, Trichy.

5.A/m. BalagurunathasamySametha
Angalaparameswari Amman Thirukovil represented by
D.Balasubramanian Hereditary Trustees Senthamangudi
Village, Hamlet of Ayyampalayam Village,
Musiri (Tk), Trichy (Dt).

6.D.Balasubramaniam

7.A.Marimuthu

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, directing the respondents No.1 to 3 to direct the respondents 5 to 7 herein to receive the contributions from the 100 family of Dharichiar Manai Telugu Chettiar Community located in Mettupalayam and Kothamangalam Village towards the Kumbabishekam festival of Arulmigu Balagurunatha Sametha Angalaparameshwari



temple Senthamangudi, Ayyampalayam Village, Musiri Taluk, Trichy District commencing from 28.06.2018 and permit the petitioner and 100 families of Dharichiar Gothram of 24 Manai Telugu Chettiar Community people at Mettupalayam and Kothamangalam to participate in the said Kumbabishekam.

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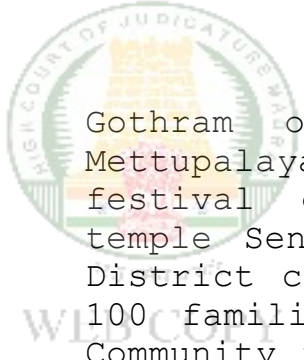
For Petitioner : Mr.J.Anandhavalli
For R1 to R3 : Ms.J.Gunaseelan Muthaiah
Additional Government Pleader
For R4 : Mr.Guhaseela Roopan
For R5 to R7 : Mr.V.Sitharanjandas

in W.P(MD)No.12214 of 2018

M.Rajesh ... Petitioner
vs

- 1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Administration Department,Nungambakkam,
Chennai.
- 2.The Joint Commissioner,
Hindu Religious and Charitable Endowments
Administrative Department,
Trichy.
- 3.The Assistant Commissioner,
Hindu Religious and Charitable Endowments
Administrative Department,
Trichy.
- 4.The Executive Officer,
Arulmigu Sapthakaneeswarar Temple,
Lalkudi, Trichy District.
- 5.Arulmigu BalagurunathasamySametha
Angalaparameswari Amman Thirukovil,
represented by D.Balasubramanian,
Hereditary Trustee.
- 6.D.Balasubramaniam
- 7.A.Marimuthu ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution
<https://hcservices.templetrusts.gov.in/hcservices/> issuance of a Writ of Mandamus, directing the
respondents No.1 to 3 to direct the respondents 5 to 7 herein to
receive the contributions from the 100 family of Dharichiar



Gothram of 24 Manai Telugu Chettiar Community located in Mettupalayam and Kothamangalam Village towards the Kumbabishekam festival of Arulmigu Balagurunatha Sametha Angalaparameshwari temple Senthamangudi, Ayyampalayam Village, Musiri Taluk, Trichy District commencing from 28.06.2018 and permit the petitioner and 100 families of Dharichiar Gothram of 24 Manai Telugu Chettiar Community people at Mettupalayam and Kothamangalam to participate in the said Kumbabishekam.

For Petitioner : Mr.J.Anandhavalli
 For R1 to R3 : Ms.J.Gunaseelan Muthaiah
 Additional Government Pleader
 For R4 : Mr.Guhaseela Roopan
 For R5 to R7 : Mr.V.Sitharanjandas

COMMON ORDER

These Writ Petitions have been filed to directing the respondents No.1 to 3 to direct the respondents 5 to 7 herein to receive the contributions from 100 family of Dharichiar Gothram of 24 Manai Telugu Chettiar Community located in Mettupalayam and Kothamangalam Village towards the Kumbabishekam festival of Arulmigu Balagurunatha Sametha Angalaparameshwari temple Senthamangudi, Ayyampalayam Village, Musiri Taluk, Trichy District, commencing from 28.06.2018 and permit the petitioner and 100 families of Dharichiar Gothram of 24 Manai Telugu Chettiar Community people at Mettupalayam and Kothamangalam to participate in the said Kumbabishekam.

2.The case of the writ petitioners in these writ petitions are as follows:

(i) The Temple, namely, Arulmigu Ayyampalayam Balagurunathasamy Sametha Angala Parameswari Amman Temple, Senthamangudi Village, Musiri Taluk, Trichy District is a denominational temple belonging to Dharichiar Gothram of 24 Manai Telugu Chettiar Community and that it has been declared as such in the suit in O.S.No.79 of 1976 on the file of the Sub-Court, Thiruchirappalli. It is the family deity (Kuladeiva) of the petitioners' family. Every year during "Mahasivarathiri", the petitioners' family assembled at the temple and perform pooja and used to cook food inside the temple premises.

(ii) The petitioners have narrated several incidents and practice of entering into the temple by all 100 families and about their religious sentiments. In this regard, a suit was also filed in O.S.No.288 of 2010 before the Sub Court, Trichirappalli, by the plaintiffs for permanent injunction restraining the defendants therein from interfering with the right of the Dharichiar Gothram of 24 Manai Telugu Chettiar Community of Mettupalayam Village, Musiri Taluk, Trichy District and Kothamangalam Village of Palani Taluk, Dindigul District, to enter into Arulmigu Ayyampalayam

the respo
belonging

pending.

18.01.2018.

granted.

<https://hcservices.e3online.in/hcservices/>



state that they proposed to offer Annathanam during Kumbabishekam and therefore, they should be permitted to give donations and other articles therefor in exercise of their right as members of the community.

4.A detailed counter affidavit has been filed by the respondents 5 to 7, disputing the status of the petitioners as members of Dharichiar Gothram of 24 Manai Telugu Chettiar Community. It is not disputed that the subject temple is the denominational temple managed by the hereditary trustees of the temple. The respondents 5 to 7 state that they have exclusive right to administer the temple and perform poojas and other rituals as recognized by the Civil Court in the suit in O.S.No.78 of 1976 on the file of the II Additional Sub Court, Tiruchirappalli.

5.It is also contended by the respondents 5 to 7 that the writ petitions have been filed with deliberate and *mala fide* intention to stop the Kumbabishekam as the interim prayer is also for restraining the respondents to conduct the Kumbabishekam.

6.Right from the suit proceedings in O.S.No.78 of 1976 on the file of the II Additional Sub Court, Tiruchirappalli, the contesting respondents have relied upon several proceedings of different forums and the order of the Hon'ble Division Bench of this Court, in W.A.(MD) No.1190 of 2017, that was recently disposed of by this Court.

7.Having regard to the fact that the petitioners want to create some problem or trouble to the management to conduct the Kumbabishekam in a peaceful manner, the respondents 5 to 7 stated that they have serious objection to entertain these writ petitions. It is to be noted that the respondents 5 to 7 have admitted the position that they are not preventing the petitioners from worshiping the deity in the temple. Since the writ petitions have been filed with prayers which are not appropriate, the contesting respondents 5 to 7 have expressed their apprehension that permitting the petitioner to worship and participate in the temple program will not be conducive for the administration of the temple and the conduct of Kumbabishekam as proposed by them on 01.07.2018.

8.This Court having regard to the fact that the temple has not lost its character as a public temple, is of the view that the petitioners or any member of public has a right to worship in the said temple and that such right cannot be denied by the respondents for any other reason.

<https://hcservices.gov.in/hcservices>
9.The learned counsel appearing for the contesting respondents fairly admitted that in the order dated 23.06.2017, in W.P.(MD) No.5201 of 2013, this Court has recognized the status of the



temple. The relevant portion of the order is extracted as below:
23. It is further claimed in the counter affidavit filed by the first respondent that the general public as well as the people belonging to the community are not allowed to worship in the temple. The persons in management are not allowed to prevent any person from worshipping in the temple. Section 107 of the Act itself makes it clear that the protection afforded to a religious denomination under Article 26 is subject to Article 25 (2) of the Constitution of India and Section 106 of the Act. Therefore, if there is any complaint regarding the denial of right to worship by any person, the same can be remedied by the authorities by taking suitable action. It is made clear that the power to manage does not include the power to mismanage. If there is any specific instance of mismanagement or maladministration, it is open to the authorities concerned to take suitable action to remedy the situation.

10. Hence, this Court is of the view that the temple being recognized and declared as a denominational temple, the trustees of the temple, who are in office, are entitled to administer the temple without any interference either by any individual or any officials of HR & CE Department. However, the temple has not lost its character as a public temple. Hence, the petitioners in both the writ petitions can offer worship like any other public without any discrimination.

11. The learned counsel for the petitioners sought for a direction to permit the petitioners to offer "Annathanam" during Kumbabishekam within the temple premises, for which, learned counsel appearing for the respondents 5 to 7 has expressed serious objection having regard to the conduct of the petitioners in approaching this Court after the dismissal of suit for non-prosecution and further contended about the practical difficulties.

12. In view of the admitted facts, the petitioners cannot be allowed to offer "Annathanam" inside the temple especially when the status of the petitioners is disputed. Being a public temple, all the offerings and donations given by the worshipers made in favour of the temple are received only by the trustees. Hence, this Court is inclined to pass the following direction:

(i) The petitioner in both the writ petitions, are entitled to enter into the temple as a member of public and offer worship in the temple without any hindrance. The petitioners can offer any donations or specified amount for the purpose of "Annathanam" in the fifth respondent temple after Kumbabishekam. The respondents 5 to 7 are directed to accept any such offer or donations either from the petitioners or the members of the petitioners' family. However, the "Annathanam" will be organized by the respondents 5 to 7 at their convenience and decision of the present trustees.

13. Since the contesting respondents, namely, respondents 5 to

7 have raised serious objection with regard to the direction for accepting donations and money from the petitioners to organize "Annathanam" within the temple, this Court makes it clear that the privileges given to the petitioners pursuant to the order of this Court is subject to the rights that may be recognized or decided in the pending suit. The order passed by this Court in these writ petitions shall not cause any prejudice to the rights of the respective parties either in the suit in O.S.No.288 of 2010 on the file of the Sub-Court, Tiruchirappalli or any other proceedings, that may be decided in future.

14.The learned counsel appearing for the fourth respondent states that he was functioning as Executive Officer of different temple and was appointed as Fit Person earlier by the Assistant Commissioner, Hindu Religious and Charitable Endowments Administrative Department, Trichy. This Court has already found that the order of the Assistant Commissioner, appointing a Fit Person was set aside ultimately.

15.The learned counsel appearing for the fourth respondent also brought to the notice of this Court that another writ petition as PIL seeking a prayer to postpone the Kumbabishekam Festival for the reason that the construction of the temple is not fully completed is pending. This Court finds that the fourth respondent has no *locus standi* as on date to say anything in this matter. Secondly, even assuming that the construction of the temple is not completed, the conduct of the Kumbabishekam is not prohibited unless it is opposed to any Agama rules.

16.In the result, these writ petitions are disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/
Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar

To

1.The Commissioner,
Hindu Religious and Charitable Endowments
Administrative Department,
Nungambakkam,
Chennai - 34.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowments
Administrative Department,
Trichy.



3.The Assistant Commissioner,
Hindu Religious and Charitable Endowments
Administrative Department,
Trichy.

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+1cc to M/s.Special Government Pleader, SR.No. 69992, 69991
+2cc to Mr.V.SITHARANJANDASS, Advocate, SR.No. 69888, 69889
+2cc to Mr.C.GUHASEELARUPAN, Advocate, SR.No.70027
+3cc to Ms.J.ANANDHAVALLI, Advocate, SR.No. 70105, 69895

W.P (MD) Nos.12213 and 12214 of 2018
26.06.2018

MM

KK/SKN RSK/SAR-1/27.06.2018/8P-12C/