



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 17.01.2018**

**CORAM:**

**THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN**

**AND**

**THE HONOURABLE MRS. JUSTICE R. HEMALATHA**

**W.A (MD) No.19 of 2017**

**and**

**C.M.P (MD) Nos.258 & 259 of 2017**

N.Krishnamoorthy

... Petitioner

Vs.

1. The District Collector,  
District Collector Office,  
Trichy - 1,  
Trichy District.
2. The Commissioner (HR & CE),  
Hindu Religious and Charitable Endowment,  
Chennai - 34.
3. The Joint Commissioner,  
Hindu Religious and Charitable Endowment,  
Uthamarkovil Devasthanam Premises,  
Pikchandarkovil Post,  
Manachanallur Taluk,  
Trichy District.
4. The Executive Officer,  
Arulmighu Brammapureeswarar Temple,  
Thiruppattur Village,  
Manachanallur Taluk,  
Trichy District.

... Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent Act, against the order made in W.P(MD)No.21962 of 2016, dated 15.12.2016 on the file of this Court.

Prayer in WP(MD). 21962/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari calling for the records relating to 4th respondent proceedings made in Ve.Aa.No.304/2016/Se, Ma.Tho.A/Trichy/dated 8.11.2016 quash the same.



For Appellant

: Mr.R.Sundar

For RR 1 to 3

: Mr.A.K.Baskara Pandian,  
Special Government Pleader.

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**JUDGMENT**

(Judgment of the Court was delivered by  
**M. SATHYANARAYANAN, J. )**

By consent, the Writ Appeal itself is taken up for final disposal.

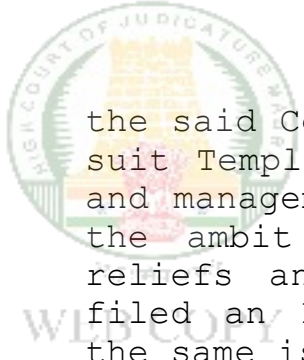
2.Mr.A.K.Baskara Pandian, learned Special Government Pleader appears for the respondents 1 to 3.

3.The petitioner has filed W.P.(MD)No.21962 of 2016, praying for issuance of Writ of Certiorari, to call for the records of the fourth respondent, vide impugned proceedings, dated 08.11.2016 and to quash the same. In the affidavit filed in support of the Writ Petition would aver among other things that there is a Temple in their Village called "Arulmighu Varadharaj Perumal Temple" and it was founded by their Community people, namely Reddiar Community and it is more than 100 years old. It is the specific claim of the petitioner that it is a Community Temple belonging to "Nama Reddiar Community".

4.The petitioner would further claim that it is also a Denomination Temple protected under Article 25 of the Constitution of India as well as under Section 107 of the Tamil Nadu Hindu Religious and Charitable Endowments Act.

5.It is also stated by the petitioner that even in the year 1995, an attempt was made by the Hindu Religious and Charitable Endowment Department to take over the administration of the said Temple and one Thiyagarajan was appointed as Executive Trustee, vide proceedings of the third respondent, dated 16.05.1995 and the said order came to be cancelled subsequently on 03.07.1996.

6.It is further averred by the petitioner that since the Hindu Religious and Charitable Endowment Department is going on making attempts to take over the administration of the Temple, the petitioner along with six others filed a suit in O.S.No.217 of 2016 on the file of the Court of District Munsif, Lalgudi, against the Commissioner, Joint Commissioner, Assistant Commissioner, Inspector of Temple-HR & CE Department, the fourth respondent herein as well as against one R.Thiyagarajan, praying for Judgment and Decree declaring that the suit Temple as a Denomination Temple belongs to Reddiyar Community and the people belonging to



the said Community alone are entitled to manage and administer the suit Temple and claiming from interfering with the administration and management of the said Temple or bring the suit Temple within the ambit of HR & CE Department and for other consequential reliefs and pending disposal of the same, the plaintiffs also filed an Interlocutory Application for permanent injunction and the same is pending.

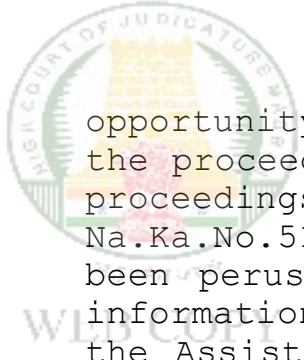
7.The petitioner expressed his grievance that despite pendency of the suit, attempts have been made to indirectly take over the control and administration of the Temple by issuing the impugned notice, for conducting tender, auction of selling the pooja articles and therefore, the petitioner was constrained to approach this Court seeking to quash the impugned notice. The writ petition was entertained and notice was ordered to the respondents therein. The fourth respondent has filed the counter affidavit and took a stand that the said Temple is a public Temple and it is wrong to allege that it belongs to a particular Community and the said Temple came under the control of HR & CE Department in the year 1975 vide proceedings in O.Mu.No.720/75, dated 06.11.1975 and thereafter, the Inspector of HR & CE Department has been appointed by the Assistant Commissioner of HR & CE Department to take over the administration and from that time onwards, the Temple is under the effective control of the HR & CE Department and thereafter, Executive Officer also came to be appointed for administration of the said Temple.

8.It is further averred by the fourth respondent that apart from the suit filed by the petitioner one Natarajan has filed an application in O.A.No.1 of 2012 on the file of the Deputy Commissioner of HR & CE under Section 63(b) of the HR & CE Act, to declare him as a hereditary trustee and it is also pending and in the light of the same, prays for dismissal of the writ petition.

9.The learned Single Judge, after taking note of the materials and rival submissions, observed that *"during the pendency of the suit before the civil Court if the impugned tender process is permitted to go on and a successful bidder is chosen for selling the pooja articles for the devotees visiting the temple, the petitioner will not be prejudiced"*. The learned Single Judge also observed that the tender process is allowed to go on, without prejudice to the rights of the parties in the said suit and therefore, disposed of the writ petition accordingly and directed the trial court to proceed with the trial of the suit in O.S.No.271 of 2016 and dispose of the same on merits and in accordance with law within a period of six months from the date of receipt of a copy of that order. Challenging the legality of the said order, the petitioner has filed the present Writ Appeal.

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

10.The learned counsel appearing for the appellant/writ petitioner would submit that though sufficient time and



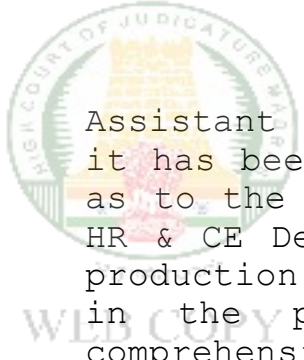
opportunity has been granted to the fourth respondent to produce the proceedings in O.Mu.No.720/75, dated 06.11.1975 as well as the proceedings of the Assistant Commissioner, HR & CE Department in Na.Ka.No.515/97/A9, dated 14.02.1998, the said proceedings have been perused and the appellant/writ petitioner has also obtained information under the Right to Information Act from the office of the Assistant Commissioner, dated 10.02.2017, wherein it has been disclosed that no proceedings are available to that effect and the said Temple has been taken over by the HR & CE Department and hence prays for interference.

11.Per contra, Mr.A.K.Baskara Pandian, learned Special Government Pleader appearing for the respondents 1 to 3, would submit that the right of the petitioner in prosecuting the said suit has been sufficiently protected and the administration of the Temple has been taken over as early as in the year 1975 and at this distant point of time, it is not open to the appellant/writ petitioner otherwise to contend and also point out that one Natarjan has also filed an application in O.A.No.1 of 2012 on the file of the Deputy Commissioner of HR & CE, to declare him as hereditary trustee and the same is pending and the remedy open to the petitioner is to work out his remedy in the competent civil Court and depending upon the result of the same, can proceed with further and hence prays for dismissal of this writ appeal.

12.It is also brought to the knowledge of this Court by the learned Special Government Pleader appearing for the respondents 1 to 3 that the auction which was the subject matter of challenge in the writ petition did not fructify and one more tender notification was issued on 02.01.2017 and seeks time to get instructions as to the result of the said tender notification and also prays for dismissal of this writ appeal.

13.This Court has considered the rival submissions and also perused the materials placed on record.

14.It is not in dispute that the appellant/writ petitioner has filed a comprehensive suit in O.S.No.217 of 2016 on the file of the Court of District Munsif, Lalgudi, for declaration and other consequential relief, specifically contending that the Temple is not a public Temple, but it is only a Denomination Temple belonging to the people of "Nama Reddiyar Community". The learned Single Judge, while disposing of the writ petition, has observed that the auction of the pooja articles is for the benefit of the devotees and permitted the auction to go on, without prejudice to the rights of the parties. The grievance expressed by the appellant/writ petitioner is that though the counter affidavit of the fourth respondent refers to the two proceedings, dated 06.11.1975 and 14.02.1998, copies of the same have been produced before the learned Single Judge and also drawn the attention of this Court to the information furnished by the office of the



Assistant Commissioner, Trichirappalli, dated 10.02.2017, wherein it has been stated that no order of the Commissioner is available as to the bringing of the temple within the ambit and control of HR & CE Department. In the considered opinion of this Court, the production and non-production of the documents can be adjudicated in the pending civil suit. As already pointed out, a comprehensive suit is pending and depending upon the result of the same, the appellant/writ petitioner may be at liberty to work out his further remedy also.

15. In the considered opinion of this Court, the auction conducted is for the benefit of the devotees of the Temple and in the light of the fact that the learned Single Judge, has also indicated that the said auction or proceedings is subject to the result of the said suit, this Court is of the considered view that the appellant/writ petitioner is not prejudiced in any manner and the learned Single Judge has sufficiently protected the interest of the parties to the civil suit.

16. In the result, the writ appeal is dismissed confirming the order made in W.P(MD)No.21962 of 2016, dated 15.12.2016. However, considering the circumstances of the case, there shall be no order as to costs. It is made clear that the parties are directed to extend their maximum cooperation to dispose of the pending suit in O.S.No.217 of 2016 on the file of the Court of the District Munsif, Lalgudi. Consequently, connected Miscellaneous Petitions are closed.

Sd/-  
Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

**Copy To:-**

**1. The District Munsif,  
Lalgudi.**

To

2. The District Collector,  
District Collector Office,  
Trichy - 1,  
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3. The Commissioner (HR & CE),  
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+ 1 cc TO Mr.R.Sundar , Advocate in SR No. 42495

MR/ps

AE/JC/SAR4/01.02.2018/6P/7C

**W.A(MD)No.19 of 2017**  
**17.01.2018**