

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2019

CORAM:

THE HONOURABLE Mr. JUSTICE T.RAJA

W.P. No.24239 of 2009
and M.P. No.1 of 2009

Sri Macheswarar Devasthanam,
Represented by its Trustee,
K.Rajagopal

.. Petitioner

-vs-

1. The Commissioner,
Hindu Religious and Charitable and
Endowment Department,
Chennai 600 034.
2. The Joint Commissioner,
Hindu Religious and Charitable and
Endowment Department,
Vellore.
3. The Assistant Commissioner,
Hindu Religious and Charitable and
Endowment Department,
Kancheepuram.

.. Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus, calling for the records leading to pass the impugned proceedings of the third respondent dated 23.11.2009 in Na.Ka.No.4426/09/A3 served 25.11.2009 the petitioner and quash the same and consequently forbearing the respondents and their official from in any way interfering with petitioner's possession, management and administration of the Sri Machessaperumal Temple alias Chippieswarar Temple which is a private denominational temple situate at T.S.No.775 East Raja Street, Kancheepuram as declared by decree dated 31.01.1994 passed in O.S.No.603 of 1981 on the file of Additional District Munsif Court, Kancheepuram.
(Prayer amended as per order dated 28.09.2010 by SMKJ in M.P.No.1 of 2010 in W.P.No.24239 of 2009)

For petitioner : Mr.B.Arvind Srevatsa
for Mr.T.V.Krishnamachari

For respondents : Mr.M.Maharaja
Special Government Pleader

ORDER

The writ petition has been filed questioning the impugned order dated 23.11.2009 calling upon the petitioner to come for enquiry along with the relevant documents.

2.Learned counsel appearing for the petitioner would submit that one Sri Machessaperumal Temple is a denominational temple, which belongs to the Thuluva Vellala Community people and the same has been administered and maintained by the said people right from 1959 and the said temple is situated in a private land. However, no donation has been received from any one other than the Thuluva Vellala Community and the entire administration is vested with the said community people. He would further submit that by registered deed of declaration of trust dated 21.10.1975, a trust has been created to administer the temple and the same is a private trust and the petitioner association has been formed as per the Trust Deed and the temple has been managed accordingly. Learned counsel appearing for the petitioner would further submit that the temple does not have the character of the public temple as defined under Section 6 (20) of the Tamil Nadu Hindu Religious and Charitable Endowment Act. While so, the Assistant Commissioner, the third respondent herein has issued a notice dated 23.02.1981 under Section 49(1) of the Act to appoint trustees to Sri Machessaperumal Temple.

3.According to the learned counsel appearing for the petitioner, though the respondents have no right to interfere with the management of the private temple, issued the said notice which necessitated the temple committee to file O.S. No.603 of 1981 on the file of the Additional District Munsif Court, Kancheepuram seeking declaration that the petitioner temple is a private denominational temple belongs to Thuluva Vellala Community. After an elaborate Trial, the suit has been decreed in favour of the petitioner by the Additional District Munsif, Kancheepuram and an order of interim stay was extended until further orders and therefore, the impugned proceedings issued by the third respondent is liable to be quashed.

4.Learned Special Government Pleader appearing for the respondents would submit that since there were certain irregularities committed in the said temple, the impugned proceeding has been issued by the third respondent.

5.As the judgment and decree passed by the Additional District Munsif, Kancheepuram in O.S. No.603 of 1981 dated 31.01.1994 has become final and an order of interim injunction granted by this Court has also been extended until further orders as declared by the Additional District Munsif, Kancheepuram on the ground that the said temple is a private denominational temple, the writ petition deserves to be allowed. Accordingly, the impugned notice is quashed and the writ petition stands allowed. Consequently, connected M.P. is closed. No costs.

vga

Sd/-

Assistant Registrar (CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The Commissioner,
Hindu Religious and Charitable and
Endowment Department,
Chennai 600 034.
2. The Joint Commissioner,
Hindu Religious and Charitable and
Endowment Department,
Vellore.
3. The Assistant Commissioner,
Hindu Religious and Charitable and
Endowment Department,
Kancheepuram.

+1cc to MrT.V.Krishnamachari , Advocate, S.R.No.13887
+1cc to the Government Pleader, S.R.No.14715

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and M.P. No.1 of 2009

sj-CO

Kak(23/03/2019)