

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 26.04.2019

CORAM
THE HONOURABLE MR.JUSTICE K. RAVICHANDRABAABU

W.P.No.4231 of 2019

C.M.Sivababu,
President,
Tamil Desiya Makkal Katchi,
No.180/32, Ayyakannu Mudaliar Street,
Tiruvannamalai,
Tiruvannamalai District - 606 601.

...Petitioner.

Vs.

1. The Chief Secretary,
State of Tamil Nadu,
Fort St. George,
Chennai - 600 009.
2. The Secretary to State,
Revenue Department,
Fort St. George,
Chennai - 600 009.
3. The Secretary to State,
Department of Hindu Religious and Charitable Endowments,
Fort St. George,
Chennai - 600 009.
4. The Commissioner,
Department of Hindu Religious and Charitable Endowments,
No.119, Nungambakkam High Road,
Chennai - 600 034.
5. The District Collector,
Vengikkal,
Tiruvannamalai,
Tiruvannamalai District.
6. The Joint Commissioner,
Department of Hindu Religious and Charitable Endowments,
Arulmigu Arunachaleswarar Temple,
Tiruvannamalai.
7. The Assistant Commissioner,
Department of Hindu Religious and
Charitable Endowments,
Tiruvannamalai.

8. The Revenue Divisional Officer,
Taluk Office,
Tiruvannamalai,
Tiruvannamalai District.

9. The Tahsildar,
Taluk Office,
Tiruvannamalai,
Tiruvannamalai District.

10. Mrs. Uma Maheswari,
Revenue Divisional Officer,
Taluk Office,
Tiruvannamalai,
Tiruvannamalai District.

11. Mr. Manoharan,
The Tahsildar,
Taluk Office,
Tiruvannamalai,
Tiruvannamalai District.

... Respondents.

Prayer: writ petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus to direct the respondents herein to reconstruct the Arumigu Mahasakthi Mariamman Temple in Survey No.62, Opposite to Sona Nadhi Thoppu, Girivalam Route, Aanai Piranthaan Village, Tiruvannamalai Taluk, Tiruvannamalai District and reinstall the Ramar, Lakshmana and Seetha Paadham on the Girivalam Route at Tiruvannamalai, opposite side of Varuna Lingam in the place where both of it were in existence as per the Agama Rules and Procedures and further an order of direction, directing the first respondent to initiate appropriate proceedings against the 5th, 10th and 11th respondents for their unlawful acts in demolishing the divine structures considering the petitioner's representation dated 21.11.2018 and 20.12.2018 on merits and in accordance with law.

For Petitioner : Mrs.Karthikaa Ashok

For Respondents : Mr.A.Kumar for R1, R2, R5, R8 & R9
Additional Advocate General
Assisted by Mr.R.Govindasamy
Special Government Pleader
Mr.M.Maharaja for R3, 4, 6 and R7
Special Government Pleader
Mr.CN.Niranjan for R10 and R11

O R D E R

This writ petition is filed seeking for a mandamus to direct the respondents herein to reconstruct the Arulmigu Mahasakthi Mariamman Temple in Survey No.62, Opposite to Sona Nadhi Thoppu, Girivalam Route, Aanai Piranthaan Village, Tiruvannamalai Taluk, Tiruvannamalai District and reinstall the Ramar, Lakshmana and Seetha Paadham on the Girivalam Route at Tiruvannamalai, opposite side of Varuna Lingam in the place where both of it were in existence as per the Agama Rules and Procedures and further an order of direction, directing the first respondent to initiate appropriate proceedings against the 5th, 10th and 11th respondents for their unlawful acts in demolishing the divine structures considering the petitioner's representation dated 21.11.2018 and 20.12.2018 on merits and in accordance with law.

2. When this matter was taken up for admission on 13.02.2019, this Court passed an interim order as follows:

"Mr.M.Maharaja, learned Special Government Pleader takes notice for the respondents 3, 4, 6 & 7. Mr.A.Kumar, learned Additional Advocate General assisted by Mr.E.Balamurugan, learned Special Government Pleader takes notice for the respondents 1, 2, 5, 8 & 9. Issue notice to the respondents 10 & 11 returnable in four weeks. Private notice is also permitted.

2. The petitioner filed the present writ petition seeking for a mandamus directing the respondents herein to reconstruct the Arulmigu Mahasakthi Mariamman Temple in Survey No.62, Opposite to Sona Nadhi Thoppu, Girivalam Route, Aanai Piranthaan Village, Tiruvannamalai Taluk, Tiruvannamalai District and reinstall the RAMAR, LAKSHMANA AND SEETHA PAADHAM on the Girivalam Route at Tiruvannamalai, Opposite Side of VARUNA LINGAM in the place where both of it were in existence as per the Agama Rules and Procedures and further directing the first respondent to initiate appropriate proceedings against the 5th, 10th and 11th respondents for their unlawful acts in demolishing the Divine structures, by considering the petitioner's representations dated 21.11.2018 and 20.12.2018 on merits and in accordance with law.

3. According to the petitioner, the subject matter Temple under the control of the Hindu Religious and Charitable Endowments Department, is not an encroachment and therefore, the removal of such Temple by the District Administration, that too, without the consent of the HR&CE Department or getting their view, is highly arbitrary and in highhanded manner.

4. The learned Special Government Pleader for the the HR&CE Department also supports the case of the petitioner by stating that the subject matter Temple is under the control of the HR&CE Department and they have not been consulted or issued any notice before removing the Temple.

5. The learned Additional Advocate General for the Official respondents viz., respondents 1, 2, 5, 8 & 9 submitted that such removal was made in pursuant to the directions issued by the Green Tribunal. He seeks time to produce the materials before this Court.

6. Post the matter on 27.02.2019. The learned Special Government Pleader for the HR&CE Department is also directed to file a report before this Court as to what transpired in this case. Till the date of next hearing, the respondents are directed not to precipitate the matter any further."

3. Thereafter, the matter was taken up for further hearing on 03.04.2019, on which day, another interim order was passed as follows:

"In pursuant to the order passed by this Court on 27.03.2019, the District Collector, Thiruvannamalai District, filed an affidavit before this Court suggesting an alternative site located at Aanaipirandhan Village at Survey No.8/2A with an extent of 0.14.5 ares for constructing Mahalakshmi Mariamman Temple .

2. Learned counsel for the petitioner submitted that instead of selecting such alternative site, there is a vacant land situated just adjacent to the place from where the Temple was removed and that place can be considered as it would not be in violation of the directions issued by the National Green Tribunal.

3. Learned Additional Advocate General submitted that the above suggestion made by the petitioner will be looked into by the Revenue Officials as well as the HR & CE Department and a report will be filed before this Court by next hearing date.

4. Recording the above said submission, post this matter on 12.04.2019. The petitioner is directed to co-operate with the official respondents to identify the place which he suggested for erecting the Temple.

4. Subsequently, the matter is listed today for further hearing. A joint memo dated 25.04.2019 is filed by the petitioner and the fifth respondent District Collector stating as follows:

"2. Pending the above Writ Petition, the 5th Respondent herein had filed an Affidavit on 03-04-2019 providing alternative site in S.No.8/2A, Aanaipirandhan Village, Tiruvannamalai, for re-constructing the Arulmigu Mahasakthi Mariamman Temple to an extent of 1 Ares. The said Land is classified as Government unassessed Dry Waste and is located at a distance of 270 Metres from the place where the temple previously existed. The Petitioner and the Revenue authorities had jointly agreed for this place after a physical visit. The 5th Respondent had agreed to grant the above said land for the purpose of Re-construction of the said temple within a period of one month from the date of receipt of the Order of this Hon'ble Court in the above Writ Petition. Wherein, the 3rd 4th & 5th

Respondent also had agreed to re-construct the said Arulmigu Mahasakthi Mariamman Temple in the said place within a period of 5 months from the date of assignment of the said land for the purpose of Re-construction of the said temple. The 5th respondent agrees to bear the cost for the re-construction of the Temple through donations from devotees and philanthropists.

3. It is submitted that the 3rd and 4th Respondents agreed to protect the Snake Pit (Putthu) in the same place where it exists with proper markings and with all safety measures.

4. The 3rd and 4th Respondents undertake to install the Siva Lingam along with the Nandhi Deva at the above proposed site of Arulmigu Mahasakthi Mariamman Temple, separately next adjacent to the Sanctum of Goddess Mariamman.

5. The 5th respondent agrees not to remove the RAMAR PAADHAM.

6. The Petitioner, as a matter to prevail peace and harmony, had agreed and consented to the above said arrangement.

Hence, it is prayed that this Hon'ble Court may be pleased to treat this Memo as part and parcel of the above W.P. and Ordered accordingly."

5. Learned counsel for the petitioner submitted that in view of the joint memo filed, the above writ petition may be disposed of accordingly.

6. Heard both sides.

7. Since the joint memo is filed by the petitioner and the fifth respondent and as the terms of the memo is agreeable to the petitioner as well as the HR & CE Department, this writ petition is disposed of, by taking the said joint memo on record and with the following directions:

a) The fifth respondent/District Collector, as agreed, shall provide alternative site in Survey No.8/2A, Aanaipirandhan village, Tiruvannamalai, for reconstructing Arulmigu Mahasakthi Mariamman Temple in an extent of land measuring one ares. The fifth respondent shall also make necessary entries in the revenue records vesting such land in the name of the said temple.

b) The HR & CE Department, through its appropriate Official, shall provide necessary plan with sketch to the fifth respondent/District Collector for reconstructing the said temple at the above said alternative site, within a period of four weeks.

c) On receipt of such plan and sketch, the fifth respondent shall commence the construction of the temple at the alternative site and complete the same within a period of six months thereafter;

d) Expenses for constructing the temple shall be met out by the State Government, through the concerned Department and the fifth respondent shall facilitate and appraise the Government for allotting such necessary fund. It is also open to the fifth respondent to receive donations from willing devotees towards such construction expenses. Depending upon the quantum of donations so received, the balance amount towards the cost of construction of the temple shall be met by the Government.

e) On completion of the construction of the said temple by the fifth respondent, the third and the fourth respondents shall install Siva Lingam along with Nandhi Deva at the newly constructed temple and perform Kumbabishekam accordingly on an auspicious day fixed by HR & CE Department.

f) The fifth respondent is directed not to remove the Ramar Paadham, from the place where it is located as on today.

g) The respondents shall not disturb the existing snake pit. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Chief Secretary,
State of Tamil Nadu,
Fort St. George,
Chennai - 600 009.
- 2.The Secretary to State,
Revenue Department,
Fort St. George,
Chennai - 600 009.
- 3.The Secretary to State,
Department of Hindu Religious and Charitable Endowments,
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Chennai - 600 009.
- 4.The Commissioner,
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- 9.The Tahsildar,
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- 10.Mrs. Uma Maheswari,
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Tiruvannamalai,
Tiruvannamalai District.
- 11.Mr. Manoharan,
The Tahsildar,
Taluk Office,
Tiruvannamalai,
Tiruvannamalai District.

+1cc to Mr.J.Ashok, Advocate, S.R.No.40736
+1cc to the Government Pleader, S.R.No.41226

SV 1(CO)

RRS (30/04/2019)

W.P.No.4231 of 2019

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