

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2019

CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.8424 of 2019
and
WMP.Nos.8943 & 8944 of 2019

P.Natesan

...Petitioner

Vs.

1. The Commissioner
HR&CE Department
Uthamar Gandhi Road
Chennai-600 034.
2. The Joint Commissioner
HR&CE Department
Salem.
3. The Assistant Commissioner
HR&CE Department
Namakkal.
4. The Revenue Divisional Officer
cum Sub Divisional Magistrate
Tiruchencode
Namakkal District.
5. K.M.Sundaramurthy

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the proceedings in Na.Ka.No.3422/2018/C on the file of the 4th respondent and quash the order dated 26.02.2019 passed therein and direct the respondents 1 to 3 to ensure the smooth functioning of the administration and poojas to be carried on by the petitioner at A/m.Annammar Swamy Thirukoil, Ramapuram, Paruthipalli Post - 637 503, Tiruchencode, Namakkal District without any intrusion of the respondents 4 & 5 their men, agents, servants, associates, subordinates, officials, anybody claiming through them.

For Petitioner : Mr.S.Prabakaran
Senior Counsel
for M/s.G.Sumithra

For Respondents : Mr.M.Maharaja
Special Government Pleader(HR &CE)
for R1 to R3
Mr.S.N.Parthasarathy
Government Advocate for R4

O R D E R

Mr.M.Maharaja, learned Special Government Pleader takes notice for the respondents 1 to 3. Mr.S.N.Parthasarathy, learned Government Advocate takes notice for the 4th respondent. Since this writ petition is being disposed of without passing any adverse orders against the fifth respondent affecting his interest, notice to the said respondent is dispensed with.

2. The petitioner seeks to challenge the order of the fourth respondent dated 26.02.2019, wherein and whereby, he has permitted the day-to-day worship at the subject matter temple viz., A/m.Annammar Swamy Thirukoil, Ramapuram, Paruthipalli Post - 637 503, Tiruchencode, Namakkal District, subject to certain conditions imposed therein. The petitioner consequently, seeks for a direction to the respondents 1 to 3 to ensure the smooth functioning of the administration and poojas to be carried on by the petitioner at A/m.Annammar Swamy Thirukoil, Ramapuram, Paruthipalli Post - 637 503, Tiruchencode, Namakkal District, without any intrusion of the respondents 4 & 5, their men, agents, servants, associates, subordinates, officials, anybody claiming through them.

3. Heard the learned Senior Counsel appearing for the petitioner, the learned Special Government Pleader appearing for the respondents 1 to 3 and the learned Government Advocate appearing for the fourth respondent.

4. According to the petitioner, he is the Hereditary Trustee of the subject matter temple and therefore, under the guise of passing the impugned order, the 4th respondent-RDO is not entitled to impose a condition that the keys of the temple shall be held by the Village Administrative Officer, who in turn was directed to open and lock the temple until further orders.

In other words, it is the contention of the petitioner that he alone must be permitted to administer the temple and its day-to-day activities and not the Village Administrative Officer, as directed by the 4th respondent.

5. On the other hand, it is pointed out by the learned Special Government Pleader for the respondents 1 to 3 that the Hindu Religious and Charitable Endowments Department through its Assistant Commissioner, Nammakkal District has already addressed the Revenue Divisional Officer, Tiruchengode, who is the 4th respondent herein, on 07.03.2019 to make necessary corrections in the order already passed by the 4th respondent on 26.02.2019 by pointing out that performing the temple poojas and the keys should be vested only with the Hereditary Trustee of the temple and therefore, to that effect, the order passed by the 4th respondent has to be rectified. Therefore, the learned Special Government Pleader contended that when the matter is pending before the 4th respondent, the petitioner has rushed to this Court hurriedly, even without waiting for the 4th respondent to pass appropriate orders.

6. Upon hearing both sides, it is seen that the 4th respondent has passed the impugned order by taking note of various facts and circumstances as well as numerous litigations filed by the respective parties arising out of the subject matter temple and its administration and performing of the festivals, poojas etc., The 4th respondent after taking note of the fact that the temple was locked for the past 5 years and therefore, the local public are sentimentally affected by not doing their rituals, prayers in the said temple for the past 5 years, has chosen to pass the impugned order by imposing certain conditions. It appears that only Condition No.4, seems to be objectionable to the petitioner on the reason that he alone is entitled to have the keys and manage the temple. As the HR&CE Department itself has addressed a letter to the 4th respondent on 07.03.2019 as stated supra, seeking for certain clarification of the earlier order passed by the 4th respondent, this Court is of the view that it is for the 4th respondent to consider the said communication issued by the HR&CE Department and pass appropriate orders after hearing the petitioner, 5th respondent, the representatives of the HR&CE Department and also other interested parties, if any. Needless to say that the 4th respondent has to see that the temple is open for the public worship without giving any room for law and order problem from any quarter. The 4th respondent shall pass such appropriate orders based on the communication issued by the HR&CE Department dated 07.03.2019 after hearing all the parties within a period of two weeks from the date of receipt of a copy of this order.

The writ petition is disposed of, accordingly. No costs.
Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

mk

To

1. The Commissioner
HR&CE Department
Uthamar Gandhi Road
Chennai-600 034.
2. The Joint Commissioner
HR&CE Department
Salem.
3. The Assistant Commissioner
HR&CE Department
Namakkal.
4. The Revenue Divisional Officer
cum Sub Divisional Magistrate
Tiruchencode
Namakkal District.

+1cc to Mr.G.Sumitra, Advocate SR.No.27565

+1cc to Mr.C.Samadharm Arasu, Advocate SR.No.27948

+1cc to Government Pleader SR.No.28591

W.P.No.8424 of 2019

GMY (27/03/2019)