

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2019

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM  
and  
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Writ Appeal No.2196 of 2018  
and  
C.M.P.Nos.17223 and 17224 of 2018

N.Ramesh ... Appellant/Petitioner

-vs-

1.The Sub Divisional Magistrate  
cum Sub Collector,  
Mettur, Salem District.

2.Salem Omalur Maanguppai Arulmigu  
Mannathasami and Sri Pachayeeamman  
Koil Pangaligal Nirvagigal Sangam,  
Rep., by its Secretary, Rathinavel,  
2/172, Chinnapattan Nagar,  
Maramangalathupatty, Salem-636 030.

3.A.Elango

4.D.Raju Poosari ... Respondents/Respondents

APPEAL under Clause 15 of the Letters Patent to set  
aside the order dated 31.07.2018 made in W.P.No.19452 of  
2018.

Prayer in W.P.No.19452 of 2018:

Petition filed under Article 226 of the Constitution  
of India praying for issuance of a Writ of Certiorari  
Calling for the entire records relating to the impugned  
order in Na.Ka.151/ 2018(D) dated 16.07.2018 from the file  
of the 1st respondent quash the same.

|                   |                                                |
|-------------------|------------------------------------------------|
| For Appellant :   | Mr.D.Sivakumaran                               |
| For Respondent-1: | Mr.V.Kadhirvelu,<br>Special Government Pleader |
| For RR2 to 4 :    | M/s.T.S.Vijaya Raghavan                        |

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## JUDGMENT

(Delivered by T.S.Sivagnanam, J.)

This appeal, filed by the appellant/writ petitioner, is directed against the order passed in W.P.No.19452 of 2018, dated 31.07.2018.

2.Heard Mr.D.Sivakumaran, learned counsel for the appellant; Mr.V.Kadhirvelu, learned Special Government Pleader for R1; and Mr.T.S.Vijaya Raghavan, learned counsel for respondents 2 to 4.

3.The appellant filed the writ petition challenging the proceedings of the first respondent, Sub Divisional Magistrate cum Sub Collector, Mettur, dated 16.07.2018.

4.According to the appellant, by virtue of the said order, the Sub Collector has virtually framed a scheme for administering the temple, viz., Arulmigu Pachayeeamman Temple, Omalur Taluk, Salem District. Dispute arose on account of the fact that a society under the name and style of Salem Omalur Maanguppai Arulmigu Mannathasami and Sri Pachayeeamman Koil Pangaligal Nirvagigal Sangam was said to have been formed by respondents 3 and 4.

5.The question is whether the Sub Collector could have been framed the scheme for administration of the temple. Admittedly, there is no rule or regulation placed before this Court to justify the action of the first respondent to frame a scheme for administration of the temple. At best, the Sub Collector can exercise his power under Section 107 Cr.P.C., if there is a breach of law and order or prejudice caused to the general public.

6.So far as the administration of the temple is concerned, it is only the authority under the provisions of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, who can frame a scheme for administration.

7.The learned counsel appearing for respondents 2 to 4 submitted that the order passed by the first respondent is not a scheme for administration, but it is only for a conduct of certain festivals etc. In any event, on a perusal of the order dated 16.07.2018, it is evident that it has a trapping of a scheme as to what is to be done and by whom is to be done etc., which could not have been

passed by the first respondent more so when there were civil litigation between the parties.

8.It may not be necessary for this Court to threadbare examine the correctness of the reasons assigned by the first respondent in the order dated 16.07.2018 for the reason that respondents 2 to 4 have filed the counter affidavit stating that the members of their community have filed a petition under Section 64(1) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, for framing a scheme of administration in respect of the temple and the same is numbered as O.A.No.2 of 2019 and the appellant has also been made as a respondent in the said application.

9.In the light of the subsequent development, the writ appeal stands allowed on the following terms:-

(i) The order passed by the first respondent dated 16.07.2018 is set aside;

(ii) Respondents 3 and 4, and the appellant are entitled to pursue their claims before the competent authority in the application filed in O.A.No.2 of 2019 and the said authority shall decide the claim based on evidence placed before it without in any manner being uninfluenced by any observation by the order passed by the first respondent dated 16.07.2018 which has been set aside by us. No cost. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

The Sub Divisional Magistrate cum Sub Collector,  
Mettur, Salem District.

+1cc to Mr.D.Sivakumaran , Advocate SR.No. 23922

+1cc to M/s.T.S.Vijaya Raghavan , Advocate SR.No. 23941

W.A.No.2196 of 2018

A.SK(26/04/2019)