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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.12.2019

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THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.14794 of 2018

Thamilaga Indhu Saiva Koyilgal
Paathukappu Matrum Deivaneri Parappum Sangam,
Regn.No.66 of 2017,
Thenpathi.

.. Petitioner

..Vs..

1. The State of Tamil Nadu rep.by its
Secretary to Government,
Tamil Development and Hindu Religious & Charitable
Endowment Department,
Chennai - 600 009.
2. The Commissioner,
Tamil Nadu Hindu Religious Charitable Endowments Department,
Nungambakkam High Road,
Chennai.
3. The Joint Commissioner,
Hindu Religious Charitable Endowments Department,
Mayiladuthurai,
Nagapattinam District.
4. Adheenakartha,
Dharumapura Adheenam,
Hereditary Trustee of Srivelur Devasthanam and
Arulmigu Vaithiyanadha Swamy Thirukoil at Vaitheeswaran Kovil,
Dharumapuram,
Mayiladuthurai.

.. Respondents

PRAYER :

Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, in the nature of a writ directing the 2nd respondent to follow his order in R.C.No.9060/2011/L5 dated 13.02.2017 by appointing an Executive Officer to the Arulmigu Vaithiyanadha Swamy Thirukoil at Vaitheeswaran Kovil.



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For Petitioner : Mr.S.Doraisamy
For R1 to R3 : Mr.M.Maharaja,
Special Government Pleader.
For R4 : Mr.S.Sounthar

O R D E R

The petitioner, Thamilaga Indhu Saiva Koyilgal Paathukappu Matrum Deivaneri Parappum Sangam, having office at Sirkazhi, has filed the present Writ Petition in the nature of Mandamus seeking direction to the second respondent, the Commissioner, Tamil Nadu Hindu Religious Charitable Endowments Department, to follow his common order in R.C.No.9060/2011/L5 dated 13.02.2017 to appoint an Executive Officer to the Arulmigu Vaithiyanadha Swamy Thirukoil at Vaitheeswaran Kovil.

2. There was a proceedings of the second respondent dated 13.02.2017 and attention has been drawn to the said proceedings particularly, the conclusive portions of paragraph 13, which are extracted below for ready reference:

"13.Though for the foregoing reasons stated supra, I am satisfied that the appointment of an Executive Officer is necessary to cure the defects, due respect should be given to the office of the Hereditary Trustee who happens to be the Head of the Ancient Mutt. Hence, it is decided to provide another chance to rectify the defects. I am confident that the Hereditary Trustee will take all necessary steps to regulate the administration and to renovate the temple. Accordingly the representation of the petitioner dated 16.04.2016 is hereby disposed of with the following directions:

(i)The Hereditary Trustee should take necessary action against the erring employees as per the provisions of the Act.

(ii)The properties of the temple should be leased out in public auction by fixing fair rent as per section 34A of the Act.

(iii)The property which were given on lease without sanction from the competent authority, should be taken back and leased out in public auction as per Rules.



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(iv) The conservation works should be started immediately by taking advice from the archaeological experts and after getting necessary sanction from the competent authority.

(v) The temple premises should be maintained neatly and in a good manner.

If the Hereditary Trustee fails to initiate steps as per the above directions within a year, the matter will be reopened and an Executive Officer will be appointed u/s. 45(1) of the Act for proper administration of the temple and its properties."

3. It is the contention of Mr.S.Doraisamy, learned counsel for the petitioner that this order was passed in the year 2017 and they have also given a representation in the year 2018, calling upon the second respondent to appoint an Executive Officer to the said Temple.

4. Mr.S.Soundhar, learned counsel for the fourth respondent states that the allegations in the petition are denied by him and he would file a proper action taken report putting forth the stand of the fourth respondent and also steps taken subsequent to the order.

5. Mr.M.Maharaja, learned Special Government Pleader, for HR & CE, drew the attention of this Court, to the said proceedings of the second respondent and stated that it would be only appropriate that the parties approach the third respondent who will necessarily give an opportunity to both the parties and thereafter, take appropriate decision.

6. Naturally before taking any such decision, it would be in the fitness of things on the part of the third respondent to issue notices to the petitioner and the fourth respondent herein namely, Adheenakartha, Dharumapura Adheenam, Hereditary Trustee of Srivelur Devasthanam and Arulmigu Vaithiyanadha Swamy Thirukoil at Vaitheeswaran Kovil, Dharumapuram, Mayiladuthurai, who will also be permitted to put forth their respective oral and written submissions regarding the actions taken subsequent to the passing of the order referred above.

7. The third respondent may examine all the issues and pass appropriate orders. The entire issue relates to a Temple and hence, would also require examination of documents and recording of oral evidence. Therefore, I am not inclined to fix any time frame for such enquiry. It would however be appropriate that the third respondent ensures that the proceedings are completed atleast on or before 31.07.2020.



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8. With the above observations, this Writ Petition stands disposed of. No Costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Government of Tamil Nadu,
Tamil Development and Hindu Religious & Charitable
Endowment Department,
Chennai - 600 009.
2. The Commissioner,
Tamil Nadu Hindu Religious Charitable Endowments Department,
Nungambakkam High Road,
Chennai.
3. The Joint Commissioner,
Hindu Religious Charitable Endowments Department,
Mayiladuthurai, Nagapattinam District.
4. Adheenakartha,
Dharumapura Adheenam,
Hereditary Trustee of Srivelur Devasthanam and
Arulmigu Vaithiyanadha Swamy Thirukoil at Vaitheeswaran Kovil,
Dharumapuram, Mayiladuthurai.

+1cc to Mr.S.Doraisamy, Advocate, S.R.No.100480

+1cc to Mr.S.Sounthar, Advocate, S.R.No.110603

+1cc to the Government Pleader, S.R.No.101232

W.P.No.14794 of 2018

NRL(CO)
CS/09/01/2020