



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.1509 of 2019

and

W.M.P. (MD) No.1300 of 2019

Arulmighu Shri Ariyanayagi Amman

Charitable Trust,

No.283, Keelanilaikottai, Tirumayam Taluk,

Pudukottai District,

represented through its Secretary

K.R.Sivaprakasam

... Petitioner

Vs.

1.The Commissioner,

Hindu Religious and Charitable Endowments Department,
Chennai.

2.The Joint Commissioner,

Hindu Religious and Charitable Endowments Department,
Trichy.

3.The Executive Officer,

Pudukottai Thirukoilgal,
Pudukottai.

4.Kalyani

The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Trichy.

5.Ramraj

The Executive Officer,
Pudukottai Thirukoilgal,
Pudukottai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus calling for the entire records relating to the impugned order Na.Ka.No.13819/2018/A4, dated 27.12.2018 passed by the second respondent and quash the same and consequently direct the respondents to grant permission to the petitioner trust to put up a new temple from their own funds in the place where the destroyed temple of Arulmigu Shri Ariyanayagi Amman Temple, Keelanilaikottai, Tirumayam Taluk, Pudukottai District is situated and also to perform Kumbhabhisham of Arulmigu Shri Ariyanayagi Amman Temple, Keelanilaikottai, Tirumayam Taluk, Pudukottai District within the time limit fixed by this Court.



For Petitioner : Mr.Mohan
for Mr.Manikandan

For R1 : Mr.M.Karuppasamy
Government Advocate

For R2 to R4 : Ms.S.Devasena

For R3 : Mr.G.Mathavan

ORDER

Heard the learned counsel on either side.

2.This writ petition pertains to reconstruction of Arulmigu Shri Ariyanayagi Amman Temple, Keelanilaikottai, Tirumayam Taluk, Pudukottai District. The temple is a significant place of worship for the 84 Vallambar Nattar Villagers. It is said to be about 100 years old. But it does not fall within the purview of the Archaeological Survey of India(ASI). The proceedings dated 23.06.2014 issued by the Conservation Assistant of ASI, is to the effect that the said temple is not in the list of heritage temples maintained by ASI.

3.The petitioner Trust was formed *inter alia* in November, 2017 for the purpose of carrying out the renovation works of the temple. Earlier a representation in this regard was submitted to the Joint Commissioner, Hindu Religious and Charitable Endowments Department (herein after referred to as "HR & CE Department"), Trichy, who in turn forwarded the proposal to the Commissioner, HR & CE Department, vide communication dated 13.02.2015. The Commissioner, HR & CE Department, addressed Shri.M.Muthiah Sthapathi, Chief Sthapathi of HR & CE Department, to offer his opinion. The Chief Sthapathi vide letter dated 24.11.2015 opined that the renovation works can be carried out.

4.The Commissioner, in the light of the opinion of the Chief Sthapathi instructed the Joint Commissioner, HR & CE Department, Trichy, to proceed further in the matter. The second respondent in turn called upon the Executive Officer of Pudukottai Thirukkivilgal, to submit a proposal after getting approval for carrying out the renovation works through donors. Finally, technical approval was given on 31.05.2017 by the first respondent. Based on the said approval given by the first respondent, the third respondent also issued proceedings dated 13.06.2017. As already mentioned, the petitioner Trust was formed on 03.11.2017.

5.While so, the temple is alleged to have suddenly collapsed on 02.06.2018. There is controversy as to whether the temple fell down or it was pulled down. The HR & CE Department is of the view that the office bearers of the petitioner Trust are responsible for the pulling down of the temple. In this regard, the HR & CE department lodged a police complaint. But the police closed the case as mistake of fact. Not satisfied with the same the HR & CE Department filed a private complaint.



6. Since the second respondent is of the view that the office bearers of the Trust are responsible for the current developments, the Executive Officer of Pudukottai Thirukkivilgal must take the initiative and submit a plan for rebuilding of the temple through individual donors. The second respondent had instructed the third respondent to obtain approval from the Commissioner and also the high-powered committee appointed by the High Court. It is this communication that is under challenge in this writ petition.

7. When the matter was taken up for hearing, the learned counsel appearing for the petitioner brought to the notice yet another communication dated 22.01.2019 issued by the second respondent. The subsequent communication dated 22.01.2019 is a summarized version of the impugned order dated 27.12.2018. Now the question arises as to what should be the course of action to be adopted.

8. The insistence of getting clearance from the committee formed by the High Court is not really warranted. It is because the temple in question is not a heritage building. It does not fall within the purview of ASI. Therefore, there is no need to obtain any clearance from the committee appointed by the High Court.

9. The undisputed fact is that the temple has collapsed. It is always open to the respondent to pursue their criminal complaint and take it to its logical conclusion, if they are of the view that it has been deliberately pulled down. What cannot be disputed is the urgent need to rebuild it.

10. If the Executive Officer has to obtain concurrence from the individual donors and submit a fresh plan for the approval of the Commissioner, it would take a long time. Before a decision is taken, the process often slips into the quagmire of red-tapism. It is very difficult to cut through the Gordian knots. Pragmatism must inform our approach.

11. The learned counsel for the petitioner states that the petitioner Trust has already collected a sum of Rs.85 Lakhs, pursuant to the permission earlier granted. The petitioner is willing to place the account books for the scrutiny of the second respondent. The petitioner further asserts that they would not go for any further collection. The re-construction of the temple will be in terms of the plan that has already been counter signed by the third respondent on 10.07.2018.

12. Reconstruction of the temple is an emergent imperative; the funds have already been collected by the Trust; the plans are also in place. Hence, the petitioner is directed to submit an application to the first respondent forthwith. The first respondent is directed to accord his approval for the reconstruction of the temple within a period of two weeks from the date of receipt of the application. It is open to the first respondent to stipulate



appropriate conditions in terms of "The Management and Preservation of Properties of Religious Institutions Rules".

13. The learned counsel for the writ petitioner on instruction states that the petitioner is not pressing the writ petition insofar as respondents 4 and 5 are concerned. The allegations made against them stand withdrawn. The petitioner may of course, make use of them only as a defence in the criminal prosecution. The department is at liberty to prosecute the criminal case against those it thinks are responsible for the pulling down of the temple. It is made clear that this Court has not made any pronouncement as to whether the temple collapsed on its own or it was pulled down.

14. For the foregoing reasons, the order impugned in this writ petition is quashed and this writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

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Sub Assistant Registrar (CS I)

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To

The Commissioner,
Hindu Religious and Charitable Endowments Department,
Chennai.

+1 CC to M/s.G.MATHAVAN, Advocate (SR-55785[F] dated 21/03/2019)

+1 CC to M/s.SPL GP (SR-55962[F] dated 22/03/2019)

+1 CC to M/s.S.MANIKANDAN, Advocate (SR-56342[F] dated 25/03/2019)

+1 CC to M/s.S.DEVASENA, Advocate (SR-56410[F] dated 25/03/2019)

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