



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.03.2019

CORAM:

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THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No. 12185 of 2017

and

W.M.P. (MD) Nos. 2288, 2289 and 11228 of 2017

1. Ramaraj
2. Chinnadurai
3. Venkatraju

... Petitioners

Vs.

1. The Joint Commissioner,
Hindu Religious and Charitable Endowment,
Sivagangai.

2. The Assistant Commissioner,
Hindu Religious and Charitable Endowment,
Virudhunagar District.

3. P.G. Balaguru
4. R. Karuppasamy
5. S. Archunan
6. U. Mariyappan

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the respondents 1 and 2 to take appropriate action against the respondents 3 to 5 for misappropriation of temple money and take over the management of the temple Sri Mariamman Temple, Thiruthangal Municipality, Sivakasi, Virudhunagar District in the interest of public and community people within the time stipulated by this Court.

For Petitioners	: Mr. V. P. Rajan
For R1 & R2	: Mr. R. Sethuraman Special Government Pleader
For R3 & R4	: Mrs. N. Krishnaveni Sr. Counsel for Mr. M. Solaisamy
For R5	: Mrs. P. Jessi Jeevapriya for Mr. G. Aravindan
For R6	: Mr. R. R. Kannan

**ORDER**

The petitioners are the devotees of the Sri Mariamman Temple, Thiruthangal.

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2.The petitioners want this Court to direct the official respondents to take action against the respondents 3 to 5. According to them, the respondents 3 to 5, who are presently in management of the temple, have committed acts of misappropriation. They also want the Hindu Religious and Charitable Endowment Department to take over the Management of the temple.

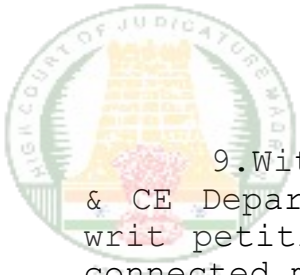
4.Heard the learned counsel appearing for the writ petitioners and the learned Special Government Pleader appearing for the respondents 1 and 2 and the learned Senior Counsel appearing for the private respondents 3 and 4.

5.It is not in dispute that the temple was put up some 100 years ago. O.A.No.8 of 1998 was filed before the Joint Commissioner, HR & CE Department, Sivagangai for framing a scheme under Section 64 (1) of the Tamil nadu Hindu Religious and Charitable Endowment Department Act, 1959. The scheme was framed on 09.06.2003. Thereafter, a few communities which felt that they have been left out, filed miscellaneous petition and wanted the O.A proceedings to be re-opened. The re-open application was allowed.

6.The learned Senior Counsel appearing for R3 and R4 would submit that the issue on hand can be given quietus, if the Joint Commissioner, HR & CE Department, Sivagangai is directed to dispose of O.A.No.8 of 1998. The Joint Commissioner, HR & CE Department, Sivagangai, is directed to hear all the parties concerned and dispose of O.A.No.8 of 1998 on merits and in accordance with law, within a period of six months from the date of receipt of a copy of this order.

7.The learned counsel appearing for the petitioner wants this Court to direct the HR & CE Department to take over the Management of the temple by appointing a fit person. It is well settled that a fit person is appointed only to tide over a temporary situation. He can never be a permanent appointee. In any event, if the competent authority is of the view that a fit person has to be appointed, it is for the authority to take a call in the matter. It is not for this Court to give a direction for taking over the management of the temple.

8.Likewise, if the petitioner wants to prosecute against the respondents 3 and 4, it is always open to them to file a private complaint. Nudge from this Court is not really required. The same principles will apply in the case of the official respondents also. The official respondents will take action, if the situation demands it. This Court will not issue any direction as sought for.



9. With this direction to the respondent Joint Commissioner, HR & CE Department, Sivagangai, to dispose of O.A.No.8 of 1998, this writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

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10. The Learned Senior Counsel appearing for the respondents would submit that the Assistant Commissioner, HR & CE Department, Virudhunagar, had taken away the Hundial key. The Assistant Commissioner is directed to open the Hundial on 27.03.2019 at 3.30 p.m, in the presence of the office bearers of the temple and also the devotees.

11. It is open to the petitioners to be present on the said occasion and participate in the counting. The Office Bearers of the temple shall maintain a register, in which, the contents of the Hundial and other receptacles shall be duly recorded. It shall be signed by all the office bearers of the temple. The second petitioner shall be coopted by the office bearers of the temple in the matter of maintaining the Hundial Register. This arrangement will continue till passing of an order by the Joint Commissioner.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1. The Joint Commissioner,
Hindu Religious and Charitable Endowment,
Sivagangai.

2. The Assistant Commissioner,
Hindu Religious and Charitable Endowment,
Virudhunagar District.

+1cc to Mr.V.Chandrasekar, Advocate, SR.No.55273
+1cc to M/S.M.Solaisamy, Advocate, SR.No.55451
+1cc to Mrs.P.Jessi Jeevapriya, Advocate, SR.No.55623
+1cc to M/S.R.R.Kannan, Advocate, SR.No.55886
+1cc to M/S.V.P.Rajan, Advocate, SR.No.
+1cc to Special Government Pleader, SR.No.55691

W.P. (MD) No.12185 of 2017
and

W.M.P. (MD) Nos.2288, 2289 and 11228 of 2017

SP/27.03.2019/ 3P/9C



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