



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.10.2019

CORAM:

THE HONOURABLE MR. JUSTICE T.S. SIVAGNANAM

and

THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P. (PD) (MD) No. 9388 of 2014

and

M.P. (MD) No. 2 of 2014

S.Arumugam

...Petitioner

Vs.

1.The Principal Secretary and Commissioner,
Department of Archaeology,
Government of Tamil Nadu,
Tamil Nadu Valarchi Valagam,
Halls Road, Egmore, Chennai-600 008.

2.The District Collector,
Tirunelveli District, Tirunelveli.

3.The Superintendent of Police,
Tirunelveli District,
Tirunelveli.

4.The Superintending Engineer,
O/o. Superintending Archaeologist,
Archaeological Survey of India,
Government of India,
Thrissur Circle,
K.S.H.B.Flats, Pullazhy,
Thrissur, Kerala-680 012.

5.The Assistant Commissioner,
Tamil Nadu Hindu Religious and
Charitable Endowment Board, (HR & CE),
Tirunelveli-2.

6.Rev.Fr.C.Antony Viyagappan,
Parish Priest, St.Peter and Paul Church,
Sendamaram, Sankarankovil Taluk,
Tirunelveli District.

..Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, to direct the first respondent to notify the temple namely Sarveswaran Kovil as ancient monument situated at Survey No.420 (New Survey No.1127/9), Sernthamaram Village, Sankarankovil Taluk, Tirunelveli



District and consequently direct the first and second respondents to take over the temple and it is property and protect the same.

For Petitioner : Mr.T.Lajapathi Roy

For R1 and R4 : Mr.V.Kathirvelu,
Assistant Solicitor General
assisted by Mr.V.Reshventheree

For R2 and R3 : Mr.A.K.Baskara Pandian
Special Government Pleader

For R6 : Mr.F.X.Eugine

For R5 : Mr.M.Muthugeethaiyan

ORDER

[Order of this Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.T.Lajapathi Roy, learned counsel for the petitioner, Mr.V.Kathirvelu, learned Assistant Solicitor General assisted by Mr.V.Reshventheree, learned counsel, appearing for the first and fourth respondents, Mr.A.K.Baskara Pandian, learned Special Government Pleader for the second and third respondents, Mr.M.Muthugeethaiyan, learned counsel for the fifth respondent and Mr.F.X.Eugine, learned counsel for the sixth respondent.

2. This writ petition has been filed by one S.Arumugam, who is the resident of Muppidadhi Amman Kovil Street, Serthamaram Post, Sankarankoil Taluk, Tirunelveli District. He seeks direction upon the first respondent, namely, the Principal Secretary and Commissioner, Department of Archeology, Government of Tamil Nadu, to notify the temple namely, Sarveswaran Kovil as ancient monument, which is situated at Survey No.420 (New Survey No.1127 of 9), Serthamaram Village, Sanakrankovil Taluk, Tirunelveli District and for consequential direction to the respondents 1 and 2 to take over the temple and protect the same.

3. The writ petition has been pending since 2014 and has been clubbed with two other writ petitions and directions were issued from time to time. The counsel were directed to visit the area and submit a report etc.. During the course of the hearing, the District Collector, Tirunelveli District was directed to submit a report before this Court, which has been promptly submitted on 21.12.2014.

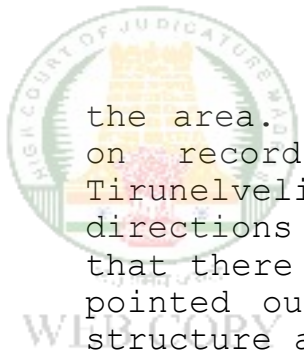
4. The learned counsel appearing for the petitioner would submit that a quietus may be given to the matter by recording the stand taken by the District Collector.



5. In our considered view, the decision taken by the petitioner Mr. Arumugam is appreciable, because he has respected the views taken by the District Collector, which is submitted before us by way of report dated 21.12.2014. Our attention was invited to the report of the District Collector and in particular, paragraph 6, which reads as follows:-

"..6. I humbly submit that there is a small room 5m*6m (length and breadth) at the back side of the church. This portion is claimed as Sarveswaran Temple by the petitioner and he claims that it is a Karpagragha of a demolished Hindu temple. Since the Punitha Rayappar Chinnappar Church is dating back to 1887 and existing undisputedly for more than 127 years or 200 years as per the Church version, raising the dispute about the existence of the Hindu temple is clearly motivated and has serious consequences on the life and property of innocent people. This area 1127/9 an extent of 49 cents is virtually under the fullest enjoyment of the Roman Catholic establishment. Now claiming existence of Hindu temple will lead to communal clash between Christians and Hindus. This room is practically the cabin in the church where the priest wears ceremonial dress and keeps some materials needed for ceremonial prayers. There is no proof to the naked eye about the existence of the Hindu temple though there are some pillars standing resembling the pillars in Dravidian style of architecture. It is not unique to Hindu temples. It exists in some mandapams, choultries, bathing places and so on. It is not a sufficient and valid proof of existence of as Hindu temple long back. Even if Archeological investigation reveals that there was an existence of the Hindu Temple, at this distant time. It will not stand since neither the land is possessed by Hindus nor worship is done or regular poojas are taking place. In the absence of all these things, the petitioner's claim is very weak and seems to be an utopia. Therefore, I humbly submit to the Hon'ble Court that the whole area in SF No.1127/9 is Punitha Rayappar Chinnappar Church."

6. The learned Assistant Solicitor General pointed out that the report submitted by the Superintending Archaeologist, Archeological Survey of the India is quite different from what has been reported by the District Collector. Photographs have also been enclosed along with the report and it is their stand that there is a temple structure and wall has been removed and church has been constructed. However, we do not wish to go into such controversy any further as the writ petitioner himself is satisfied, if the stand taken by the District Collector is placed on record. As observed by us earlier, this is with a view to ensure that there are no other communal disputes in the area and peace should prevail in



the area. Accordingly, we dispose of the writ petition by placing on record the report submitted by the District Collector, Tirunelveli as desired by the writ petitioner as no further directions are required in this writ petition. We make it clear that there shall be no structural alteration in the areas, which are pointed out by the report along with survey report and the home structure and rooms, to which the Church building is attached, shall be maintained as such and if any damage or alteration is caused, it will invite action for contempt. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The Principal Secretary and Commissioner,
Department of Archaeology,
Government of Tamil Nadu,
Tamil Nadu Valarchi Valagam,
Halls Road, Egmore, Chennai-600 008.

2.The District Collector,
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Archaeological Survey of India,
Government of India,
Thrissur Circle, K.S.H.B.Flats, Pullazhy,
Thrissur, Kerala-680 012.

+1CC TO MR.T.LAJAPATHI ROY, Advocate Sr. No.91822
+1CC TO MR.M.MUTHUGEETHAYAN, Advocate Sr. No.91850
+1CC TO MR.F.X.EUGENE, Advocate Sr. No. 91832

ORDER MADE IN
W.P. (MD) No.9388 of 2014
14.10.2019

KG (CO)

TR(24.10.2019) 4P 8C