



WEB COPY

W.P(MD)No.5223 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P (MD)No.5223 of 2020

and

W.M.P (MD) .Nos.4562 and 4564 of 2020

T.Karunanithi ... Petitioner
Vs.

1.The Commissioner,
Hindu Religious and Charitable Endowment Department,
Nungampakkam, Chennai.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Tirunelveli -2.

3.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Nagercoil-2, Kanyakumari District.

4.The Executive Officer,
Arulmigu Muppanthal (East) Esakkiamman Temple,
Aralvaimozhi, Kanyakumari 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 respondents 1 to 3 to defer all further proceedings relating to taking charge of Arulmigu Chekkargiri Subramanya Swamy Temple, Thovalai Village, Kanyakumari District till disposal of the Revision Petition in R.P.No.1 of 2019.

For Petitioner : Mr.G.V.Vairam Santhosh

For Respondents : Mr.V.R.Shanmuganathan
Special Government Pleader
(for R1 to R3)
Mr.H.Arumugam
Standing Counsel (for R4)



ORDER

By consent of both parties this writ petition is taken up for final disposal at the admission stage itself.

2.This petition is filed in the nature of Mandamus seeking direction against the respondents 1 to 3 herein to defer all further proceedings relating to taking charge of Arulmigu Chekkargiri Subramanya Swamy Temple, Thovalai Village till the disposal of the revision petition in R.P.No.1 of 2019.

3.The petitioner has a chequered history insofar as the said temple is concerned. I am not going deeply into the facts. But, my attention has been drawn to the order dated 19.10.2018 in W.P.No.18972 of 2017, which had been specifically filed seeking to remove the present writ petitioner from Management/administration of the very same temple. The Hon'ble Division Bench while examining the contentions raised, has observed as follows:

'.....

5. Unfortunately, even today, the administration has not been taken over by the respondent No.5, as indicated in the earlier orders.

6. On behalf of the respondents 7 and 8, though an attempt is made placing reliance upon Section 101 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, we are of the view that the said position cannot go beyond the directions issued by this Court, especially, when the Temple itself has been brought within the purview of the Hindu Religious and Charitable Endowments Department.

7. Admittedly, the orders passed by the department have not been challenged. The respondents 7 and 8 have lost their status. Therefore, for their illegal control of the administration, they cannot be allowed to contend that they should only be removed by following the procedures under Section 101 of the



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Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. This provision is only an enabling provision to be used on a contingency. It is not as if in all cases, it has to be invoked. When a person has no authority and despite knowing the same, is continuing with these illegal activities, a Court of law cannot deny the relief to a party, who knocks the door seeking justice.

8. In such view of the matter, we direct the respondent No.6 to extend all necessary help to respondent No.5 to take charge of the administration. Needless to state that it has to be done, within a period of four weeks from the date of receipt of a copy of this order.

9. The Writ Petition stands disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.'

4. After that order, a review petition was filed before the Division Bench which was dismissed, but opportunity was given to the present writ petitioner to question the original order of the authority. Questioning such order, the petitioner had filed R.P.No.1 of 2019, which is pending.

5. The learned counsel for the petitioner states that no coercive action should be taken by the respondents till the said R.P.No.1 of 2019 is disposed of.

6. However, the observation of the Hon'ble Division Bench is very clear. They have very clearly stated that possession of the petitioner herein is illegal and he had also lost his status. It has also been observed that the petitioner has been in illegal control of the administration. In the said writ petition, the present writ petitioner was clubbed along with another respondent, by name Dhanu. It is also brought to my attention that there are suppression of the materials of fact in the affidavit filed in the present writ petition, namely with respect to pendency of O.S.No.41 of 2017 on the file of the District Munsif-Judicial Magistrate, Boothapandi in Kanyakumari District.



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7.In view of all these facts, I am not inclined to grant any relief to the petitioner. The respondents may dispose of R.P.No.1 of 2019 after following due process. Accordingly, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (A.D.II)

//True Copy//

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Sub Assistant Registrar(CS)

To

- 1.The Commissioner,
Hindu Religious and Charitable Endowment Department,
Nungampakkam, Chennai.
- 2.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Tirunelveli -2.
- 3.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Nagercoil-2, Kanyakumari District.

+1cc to Mr.A.Arumugam, Advocate Sr.No.11468

AKM/08.05.2020/4P-5C/

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