



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.09.2020

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.8771 of 2020

and

W.M.P. (MD)Nos.8059 of 2020

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K.Sembulingam

... Petitioner

Vs.

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

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

3.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Trichy District.

4.Vairavan

5.The Fit Person/ Takkar,
Arulmigu Kuttiyandavar & Mariamman Temple
Vambarampatti Village,
Thirumayam Taluk,
Pudukkottai District.

Having Office at:

Arulmigu Muthumariamman Temple,
Konnaiyur, Ponamaravathy,
Pudukkottai District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari calling for the records relating to the impugned resolution dated 22.05.2020 passed by the fourth respondent and quash the same.

For Petitioner: Mr.B.Prasanna Vinoth

For R1 to R3 : Mr.K.P.Narayanakumar
Special Government Pleader



For R4 : No appearance

For R5 : G.Madhavan

ORDER

Heard the learned counsel appearing on either side.

2.What is under challenge in this writ petition is a resolution passed by the fit person of the Arulmighu Kuttiyandavar and Muthumariamman Kovil, Vambarampatti, Thirumayam Taluk, Pudukkottai District.

3.The learned counsel for the petitioner states that the process of constituting the Board of Trustees is presently on. He would state that in order to aid the party inimical to the petitioner, the impugned resolution has been passed by the fit person.

4.I went through the contents of the impugned resolution. It states that it has been resolved to appoint an Executive Officer under Section 45(1) of the Tamil Nadu Hindu Religious and Charitable Endowment Act 1959. A mere look at Section 45(1) of the said Act indicates that it is for the Commissioner of the Tamilnadu Hindu Religious and Charitable Endowment Department to appoint an Executive Officer for the temple. There is nothing on record to show that the Commissioner had asked for any inputs from the fit person herein. The fit person on his own has passed this resolution. The fit person refers to the order dated 19.07.2019 in W.P.(MD)No.15984 of 2019. The said writ petition was filed by one C.Veerasingam. In the said writ petition, the prayer was for appointing an Executive Officer for this temple.

5.The learned counsel for the petitioner states that the writ petition in W.P.(MD)No.15984 of 2019 has been filed by suppressing the facts. When the petitioner herein intervened and informed the Court, that Writ Petition was dismissed as withdrawn with liberty to him to approach this Court later, at a more appropriate juncture, if need be.

6.I fail to understand as to how the disposal of the writ petition with liberty can provide justification for the fit person to pass the impugned resolution. More than anything else, a fit person is appointed as a temporary measure till the regular Board of Trustees take over the charge. It is not for the fit person to pass a resolution of this nature which has a major implication on the administration and management of the temple. Therefore, the very passing of the resolution is most unwarranted.



7. Therefore, the impugned resolution is set aside and this writ petition is allowed. Consequently, connected miscellaneous petition is closed. No costs.

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Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

pnn

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

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

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

3. The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Trichy, Trichy District.

+1 CC to Mr.B.PRASANNA VINOTH, Advocate (SR-17049[F] dated 16/09/2020)

+1 CC to SGP (SR-17312[F] dated 17/09/2020)

W.P. (MD)No.8771 of 2020
15.09.2020

SS (CO)
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