



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2021

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.No.2863 of 2012

Vadakailasam Melapalayam Baliya
Naidu Samugathiruku Bathiyamana
Arulmighu Bajanaimadam @ Bajanai Koilil
Sri Sanjeevarayar Samedha Sri
Kothandaramasamy Thirukovil rep. by its
Managing Trustee M.Seshachalam ...Petitioner

Vs

1. The Joint Commissioner
Hindu Religious and Charitable
Endowment Department
Villupuram District.
2. The Assistant Commissioner
Hindu Religious and Charitable
Endowment Department
Cuddalore District, Cuddalore.
3. The Fit Person/Executive Officer
A/m. Bajanai Madam @ Bajanai Kovil
Vadakailasam, Melapalayam
Panruti Taluk
Cuddalore District. ...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, forbearing the respondents, their men, employees, officers or servants or any one from in any manner interfering with the administration of the temple and its properties by the Managing Trustee of Sri Sangeevarayan Temple or Bajanai Madam or Bajanai Koil, Vadakailasam, Panruti, having deities of Sanjeevarayan and Sri Kothandarama Swamy.

For Petitioner : Mr.G.Sankaran

For Respondents : Mr. NRR Arun Natarajan
Government Advocate for R1 & R2
No appearance for R3



ORDER

In the captioned writ petition, Mr.G.Sankaran, learned counsel for the writ petitioner and Mr.G.Sarath Babu, learned counsel representing Mr. NRR. Arun Natarajan, learned State counsel on behalf of respondents 1 & 2 are before this virtual Court. The third respondent (Fit Person) has entered appearance through counsel and the name of the counsel is shown in the cause list but none appears.

2. Learned counsel for the writ petitioner submits that subject matter of captioned writ petition is a temple which goes by the name 'Arulmigu Sanjeevarayar Pidari Amman and Osur Amman Temples at Melapalayam' (known as Vadakailasam), situate in Panruti Town and Taluk, South Arcot District (hereinafter 'said temple' for the sake of convenience and clarity).

3.Learned counsel submits that a scheme has been settled qua said temple inter alia under Section 64(1) of the 'Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Act 22 of 1959)' which shall hereinafter be referred as 'TN HR & CE Act' for the sake of brevity, convenience and clarity). Scheme has been settled vide O.A.No.17 of 1989 on the file of the jurisdictional Joint Commissioner and the scheme has been duly published in the Government District Gazette on 28.08.1990 is learned counsel's further say.

4. Captioned writ petition has been filed seeking a Mandamus to direct the respondents to not to interfere with the administration of said temple. In the considered view of this Court, such a prayer cannot be sustained as said temple for which a scheme has been settled will also come within the purview of 'TN HR & CE Act' unless it is exempt by the Government from the 'TN HR & CE Act' by way of an exemption under Section 4 of 'TN HR & CE Act'. This is in the light of the Scheme of statute which is captured in Sections 1(3) and 4 of 'TN HR & CE Act'.

5.Be that as it may, in response to the writ petition, State has filed a counter affidavit wherein it has inter-alia been averred that a Fit Person has been appointed for the said temple owing to some disputation/disagreement regarding who is the secretary of the representatives of a section (qua aforementioned settled scheme that is now operating), which would be in administration of said temple. It is not necessary to dilate much on this aspect as it is not necessary to delve into those aspects owing to appointment of Fit Person which according to the counter-affidavit is under Section 49 of 'TN HR & CE Act' by the jurisdictional Assistant Commissioner, as said temple is a non-listed temple under 'TN HR & CE Act'.



6. If a Fit Person has been appointed under Section 49 of 'TN HR & CE Act', any person who is aggrieved by the same can assail the appointment of a Fit Person under the 'TN HR & CE Act', either resorting to a statutory revision under Section 21 or under Section 21 (A) but this Court refrains itself from dilating further on the alternate remedy available under the statute as availability of this remedy is not disputed. Suffice to say that the writ petitioner, if aggrieved by the appointment of Fit Person, should assail the same in accordance with the aforesaid provisions i.e., statutory remedies that are contained in 'TN HR & CE Act', and therefore, a sweeping mandamus prayer as sought for cannot be acceded to owing to this and other reasons alluded to supra.

7. In the light of the narrative thus far, besides the discussion set out supra, captioned writ petition is disposed of albeit preserving the rights of the writ petitioner to assail the appointment of Fit Person in a manner known to law (if so advised and if the writ petitioner chooses to do so). If the writ petitioner assails the appointment of Fit Person, the same shall be dealt with on its own merits and in accordance with law, uninfluenced by any observations which may come across as having the trappings of observation on merits that may have been made in this order all of which are for the limited purpose of disposal of captioned writ petition.

8. Captioned writ petition is disposed of as closed albeit preserving the rights of the writ petitioner in the aforesaid manner. No Costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

mmi/NST

To

1. The Joint Commissioner
Hindu Religious and Charitable
Endowment Department
Villupuram District.
2. The Assistant Commissioner
Hindu Religious and Charitable
Endowment Department
Cuddalore District
Cuddalore.



3. The Fit Person/Executive Officer
A/m. Bajanai Madam @ Bajanai Kovil
Vadakailasam, Melapalayam
Panruti Taluk
Cuddalore District.

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+1 cc to Mr.G.Sankaran,Advocate Sr.No.49955
+1 cc to the Government Pleader,Advocate Sr.No.49620

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NSK 22/10/2021