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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2021

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No. 2829 of 2015

MP.No.1 & 2 of 2015

M.Subramaniam

...Petitioner

Vs.

1.The Joint Commissioner,
H.R. & C.E. Department,
Coimbatore

2.The Assistant Commissioner,
H.R. & C.E. Department,
Coimbatore

3.The Fit Person,
A/m. Angalamman Thiru Koil
Erippatti, Pollachi Taluk.
Also the Executive Officer,
A/m.Subramaniaswamy Thirukkoil,
Pollachi Town and Taluk

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of certiorarified mandamus calling for the records pertaining to the item no.9 of the impugned order dated 07.02.2008 bearing Nada.Na.Ka.No.4012/2006/A6 passed by the second respondent herein, quash the same and consequently forbear the respondents herein from in any way interfering with the peaceful possession and management of the A/M.Angalamman Thiru Koil Eripatti, Pollachi Taluk by the petitioner herein.

For Petitioner : Mr.Sudhakar for
Mr.V.P.Karthikeyan

For Respondents: Mr.NRR Arun Natarajan(R1 and R2)
Government Advocate

Mr.Rajesh Vivekananthan (R3)



ORDER

The petitioner seeks a writ of certiorarified mandamus calling for and quashing order dated 07.02.2008 passed by R2/the Assistant Commissioner, HR&CE Department, as per which R3, the Fit person of the Arulmighu Angalamman Thiru Koil, Erippati, Pollachi Taluk has been appointed as Fit person to hold charge of the Arulmighu Subramaniaswamy Thirukkoil, Pollachi Town (temple/temple in question) and Taluk.

2.Heard Mr.Sudhakar, learned counsel for Mr.V.P.Karthikeyan, learned counsel for the petitioner, Mr.NRR Arun Natarajan, learned Government Advocate for the Official respondents i.e. the Joint Commissioner and the Assistant Commissioner, R1 and R2 respectively and Mr.Rajesh Vivekanandham, learned counsel for R3/the Fit Person of the temple in question. One Mr.Nagarajan, learned counsel would mention that an implead application has been filed by certain parties, who seek to support the stand of the respondents in this matter. However, the implead application has not been numbered and in light of the order that I propose to pass in this matter, I see no reason to adjourn the matter for this purpose.

3.The first defence put forth by the respondents is that the writ petition is belated and also suffers from suppression of material facts. The petitioner has filed this writ petition in 2015 challenging order dated 07.02.2008, appointing a fit person. It is not as though the petitioner was unaware of the appointment of fit person as there are certain proceedings filed before the District Revenue Officer that I shall advert to momentarily, wherein the petitioner has made reference to the order appointing a fit person.

4.The petitioner claims that the land at Survey No.195, Erippati Village, Pollachi Taluk (property in question), in which the temple in question is situated belonged to his father and three others, as patta was granted to them under proceedings dated 22.08.1968 by the Settlement Tahsildar. His father and the three persons to whom patta was granted, he would claim were hereditary trustees and pujaris of the temple. Patta was granted in terms of Section 8(2)(II) read with Section 11 of the Madras



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Minor Inams (Abolition & Conversion into Ryotwari) Act, 1963 and according to the petitioner, such patta would continue to vest in the legal heirs of the original patta holders, the petitioner claiming such entitlement.

5.He would refer to an unnumbered Original Application filed under Section 63(b) of the Tamil Nadu Hindu Religious & Charitable Endowments Act, 1959 (Act) praying for a Declaration that the petitioner and 17 others, are the legal heirs of the original hereditary pujaries/trustees. There is no evidence placed on record in support of the filing of the aforesaid application before the respondents and the respondents deny receipt of the same. I thus eschew all reference to the unnumbered OA and attempts to rely upon the same.

6.Moreover, learned counsel for R3 has filed a detailed counter accompanied by a compilation of documents dated 16.08.2021. These documents are illuminating. Reference is made therein to proceedings of the Special Officer/District Revenue Officer (Temple Land) in Na.Ka.No No.510 of 2010 dated 14.12.2011, wherein the claim of the petitioner to the effect that the title to the land in question vests in him, has been rejected. The matter was contested before the Special Officer by R3 and thus the petitioner was indeed fully aware that the fit person had taken charge of the management of the temple in 2011. That apart, order dated 28.02.2012 has attained finality and there is no challenge to the same.

7.The fact that the petitioner was aware of the appointment of the fit person in 2011 is also evident from the averments in the affidavit filed in support of W.P.No.28739 of 2011, wherein the notice issued by the DRI prior to passing of order dated 22.08.2012, had come to be challenged. The Executive Officer has been arrayed as a respondent therein. Petitioner cannot thus, pursue the plea that he was unaware of the appointment of the executive officer till 2015. The contention of R3 to the effect that the present writ petition is belated is thus meritorious and I accept the same. In the light of the discussion as aforesaid, I am of the categorical view that there is no merit whatsoever in the challenge to the impugned order. The challenge to the impugned order fails on this ground.



8. Having taken charge of the temple management in 2011, it is R3 who is managing the affairs of the temple till date. There is reference to the same in interim order dated 13.02.2015 passed by a learned Single Judge, wherein, at para 2 he states that the fit person was in charge of the temple even at that juncture.

9. Learned counsel for R3 clarifies that the fit person has, in fact, taken charge of the temple in 2011 and as the tenure of R3 is for a period of three years, appointments are being made in accordance therewith from time to time.

10. Learned counsel for R3 states that even though the fit person has taken charge as early as in 2011 and despite periodic peace meetings being conducted between the residents of the locality and the temple administration, some of the assets of the temple are still in the possession of the petitioner.

11. There is a direction to the petitioner to return all assets, documents and valuables of the temple to R3 within a period of one week from today. R3 will ensure compliance of this direction, taking resort to the police for protection, if necessary.

12. The suppression of facts by the petitioner is apparent, as the sequence of events from 2008 till date have been brought to the notice of the Court only by virtue of the counter and the accompanying compilation filed by of R3. The writ affidavit is blissfully silent in regard to any of the material facts as noted in the preceding paragraphs of this order. Cost of a sum of Rs.25,000/- is imposed, payable to Cancer Institute, Adyar, Chennai-600020, within a period of one week from today.

13. This writ petition is dismissed. Connected miscellaneous petitions are closed.

14. List this matter to report compliance after four (4) weeks.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar



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Coimbatore

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Erippatti, Pollachi Taluk.
Also the Executive Officer,
A/m.Subramaniaswamy Thirukkoil,
Pollachi Town and Taluk

4.The Dean
Cancer Institute,
Adayar, Chennai 600 020.

+1cc to M/s.R.Rajesh Vivekananthan, Advocate, S.R.No.41271
+1cc to M/s.V.P.Karthikeyan, Advocate, S.R.No.41371
+1cc to the Government Pleader, S.R.No.41959

W.P. No.2829 of 2015

CP(CO)
SB(01/11/2021)