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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND
THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

W.A.No.1448 of 2021
and
C.M.P.No.9007 of 2021

D.Shankar,
S/o.Dhandapani,
982, Sengunthar Street,
Thandanathottam,
Ayyavadi Post,
Kumbakonam Taluk,
Thanjavur District.

...Appellant/Third Party

Vs.

1. R.Jayakumar,
S/o.Ramalingam,
Hereditary Trustee,
A/m.Ayyanar Vazhikariyan
Lada Sanayasi Temple,
Vazhavur Village, Kuthalam Taluk,
Mayiladuthurai District.

...1st Respondent/Petitioner

2. The Commissioner,
Hindu Religious and Charitable Endowments,
Department No.119, Uthamar Gandhi Salai,
Nungambakkam, Chennai - 600 034.

3. The Joint Commissioner,
Hindu Religious and Charitable Endowments,
Department Mayiladuthurai Division,
Sitharkaadu, Mayiladuthurai District.



4. The Fit Person,
A/m.Ayyanar Vazhikariyan
Lada Sanayasi Temple,
Vazhavur Village, Kuthalam Taluk,
Mayiladuthurai District,
Also the Fit Person/Executive Officer,
A/m Veerateswaraswamy Temple,
Vazhavur Village, Kuthalam Taluk,
Mayiladuthurai District.
5. T.Rajalingam,
S/o.Thangavelu, Kizhaveedhi Vazhavur,
Kuthalam Taluk, Mayiladuthurai District.
6. K.Pandian,
S/o.Kannappan, No.51,
Subramaniapuram,
Mayiladuthurai District.
7. N.Manivannan,
No.33, Om Sakthi Nagar,
Nallathukudi Village,
Mayiladuthurai District.
8. N.Gandhimathinathan,
No.33, Om Sakthi Nagar,
Nallathukudi Village,
Mayiladuthurai District.

... Respondents 2 to 8/Respondents 1 to 7

PRAYER : Writ Appeal filed under Clause 15 of Letters Patent Act, praying to set aside the order dated 07.04.2021 passed in W.P.No.8540 of 2021 on the file of this Court and allow the Writ Appeal.

Prayer in W.P.No.8540 of 2021: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Mandamus for bearing the Respondents 1 to 3 from initiating any action in furtherance of to the orders dated 26.02.2021 of the 2nd respondent made in Se.Mu.Na.Ka.Nos.6520/2018-1/A1 and Se.Mu.Na.Ka.Nos.6520/2018-2/A1 till the disposal of the appeal in A.P.R.C.No.15846 of 2021 dated 22.03.2021 on the file of 1st Respondent.

For Appellant : Mr.Shivakumar
for M/s.K.M.Vijayan Associates



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For Respondents: Mr.V.Srikanth for R1.
: Mr.M.Venkateswaran
State Government Counsel for R2 & R3.

J U D G M E N T

(Judgment of the court was made by N.KIRUBAKARAN.J.,)

The matter was heard through "Video Conference".

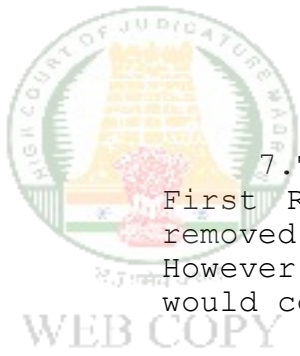
2.This Appeal has been preferred by the third party against the order passed by the Learned Single Judge in the Writ Petition filed by the First Respondent.

3.The First Respondent is the hereditary trustee of the Temples viz., Arulmigu Ayyanar Vazhikariyan Lada Sanyasi Temple and Arulmigu Veerateswaraswamy Temple, Vazhuvur Village, Kuthalam Taluk, Mayiladuthurai District. However, he has been suspended and a fit person has been appointed as Trustee. Against the said order, statutory Appeal has been filed by the First Respondent in A.P.No.15 of 2021 before the Commissioner. In the said Appeal, an Application for interim protection has been filed.

4.However, since no order has been passed, the First Respondent has come before this Court by way of the Writ Petition in W.P.No.8540 of 2021 praying to forbear the Respondents 1 to 3 therein from initiating any action in furtherance to the order dated 26.02.2021 of the 2nd Respondent therein made in Se.Mu.Na.Ka.Nos.6520/2018-1/A1 and Se.Mu.Na.Ka.Nos.6520/2018-2/A1 till the disposal of the Appeal in A.P.R.C.No.15846/2021 dated 22.03.2021 on the file of the First Respondent therein.

5.The Learned Single Judge, after hearing the Petitioner and official Respondents directed the authorities to dispose of the Appeal filed by the Petitioner / First Respondent within a period of four weeks from 07.04.2021 and protected the interest of the First Respondent till such time. The said order is challenged before this Court by way of this Appeal.

6.Heard Mr.Shivakumar, Learned Counsel for the Petitioner, Mr.V.Srikanth, Learned Counsel for the First Respondent and Mr.M.Venkateswaran, Learned State Government Counsel appearing for the Respondents 2 and 3.



7.The Learned Counsel for the Petitioner submitted that the First Respondent was only a hereditary trustee and if he was removed from the said post, he cannot have interim protection. However, Mr.V.Srikanth, Learned Counsel for the First Respondent would contest the same.

8.A perusal of the records would show that order has been passed against the First Respondent on 26.02.2021, against which an Appeal has been filed in A.P.No.15 of 2021 and an interim order has been sought by filing an interim Application in the Appeal. Since no order has been passed, the First Respondent filed the Writ Petition in W.P.No.8540 of 2021.

9.This Court is of the view that if no interim order is granted to the First Respondent, the very purpose of filing an Appeal would be lost and hence, taking into consideration of the same, the Learned Single Judge has directed the authorities to dispose of the Appeal within a period of four weeks. Hence, this Court finds no illegality in the order passed by the Learned Single Judge and this Appeal is liable to be dismissed.

10.Since it is seen that the Appellant is interested in participating in the hearing of the Appeal, he shall approach the Second Respondent by filing appropriate Petition and the Second Respondent shall give opportunity to the Appellant while deciding the Appeal filed in A.P.No.15 of 2021. Moreover, it is seen that earlier, a date has been fixed for hearing the Appeal on 22.03.2021.

11.In view of the above, interim order of stay of the order dated 26.02.2021, already granted by this Court, is extended till the disposal of the Appeal and the copy of the same is being served upon the parties. The Appellant shall also be given an opportunity to participate in the proceedings of the Appeal. The Second Respondent shall decide the matter after giving opportunity to all the parties on merits, uninfluenced by any of the observations made by this Court.

12.With the above directions, this Writ Appeal is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-III)

// True Copy//

Sub Assistant Registrar

ay/sai



To

1. The Commissioner,
Hindu Religious and Charitable Endowments,
Department No.119, Uthamar Gandhi Salai,
Nungambakkam, Chennai - 600 034.
2. The Joint Commissioner,
Hindu Religious and Charitable Endowments,
Department Mayiladuthurai Division,
Sitharkaadu, Mayiladuthurai District.

W.A.No.1448 of 2021

SR(CO)
SU(27/08/2021)