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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2021

CORAM

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR

W.P. No. 31335 of 2017

S.G.Perumal ... Petitioner

-Vs-

1. The State of Tamil Nadu,
   Represented by the Secretary to Government,
   Hindu Religious and Charitable Endowments Department,
   Secretariat, Chennai - 600 009.

2. The Commissioner,
   Hindu Religious and Charitable Endowments Department,
   Nungambakkam High Road,
   Chennai - 600 006.

3. The District Collector,
   Vellore District.

4. The Revenue Divisional Officer,
   Tirupathur, Vellore District.

5. The Assistant Commissioner,
   Hindu Religious and Charitable Endowments Department,
   Vellore.

6. The Tahsildar,
   Tirupathur Taluk,
   Vellore District.

7. A.Ramasami

8. P.Govindasamy ... Respondents

(R7&R8 impleaded vide order dated 11.11.2021 made in W.M.P. No. 37843 of 2018 in W.P. No. 31335 of 2017 by RSKJ)

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PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus directing the second and fifth respondents to take over the Temple called as Sri Thengai Nachiamman Koil, situated in Survey No.55, at Perumpalli Village, Jawathu Hills, Tirupathur Taluk, Vellore District and to administer / manage the same based on the recommendations made by the Tahsildar, Tirupathur Taluk, the sixth respondent herein in his proceedings in Na.Ka.B1/2715/2015 dated 10.07.2015.

For Petitioner : Mr.S.Sathishrajan

For Respondents : Mr.NRR.Arun Natarajan
Special Govt. pleader for R1 to R6
Mr.F.Camilus Selva for R7 to R8

O R D E R

The prayer sought for herein is for a Writ of Mandamus directing the second and fifth respondents to take over the Temple called 'Sri Thengai Nachiamman Koil' situated in Survey No.55 at Perumpalli Village, Jawathu Hills, Tirupathur Taluk, Vellore District and to administer / manage the same based on the recommendations made by the Tahsildar, Tirupathur Taluk, the sixth respondent herein in his proceedings in Na.Ka.B1/2715/2015 dated 10.07.2015.

2. According to the petitioner, a Temple called 'Sri Thengai Nachiamman Koil' situated in Survey No.55 at Perumpalli Village, Jawathu Hills, Tirupathur Taluk, Vellore District belongs to the village people of three villages namely Kallavoor, Serkanur and Perumpalli. The said Temple was constructed long back by the three villagers and they performed poojas and conducted earlier festivals jointly, i.e., by the members of all the three villages for several decades.

3. When that being so, in the recent past, Perumpalli village people claimed that, the Temple belongs to them only and therefore, in the last couple of years, they conducted the festival on their own without taking into confidence the other two villages namely Kallavoor, Serkanur. In this regard, representation and complaint had been given to the Revenue Authorities, as there was a likelihood of law and order issue in view of the said position, where the Perumpalli village people alone claimed right over the said Temple. There had been some peace meetings at the behest of the Revenue Authorities and ultimately, some report had been sent by the Tahsildar to the District Collector and the Revenue Divisional Officer concerned on 10.07.2015. Despite these developments, since there was no

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likelihood of amicable settlement among the three village people, the village people of the Perumpalli village, where the petitioner belongs and he claimed, he is one of the Dharmakartha of the Temple, has moved this Writ Petition seeking for a Writ of Mandamus to the respondents H.R&C.E., Department to take over the Temple in question under the administration of the H.R&C.E., Department and in this regard, since he has given representations on 21.12.2015 and 13.04.2016 and the same since have not been considered by the H.R&C.E., Department, the present Writ Petition has been filed with the aforesaid prayer.

4. During the pendency of the Writ Petition, the seventh and eighth respondents have been impleaded as party respondents in this Writ Petition, at their instance who filed Miscellaneous Petition in this regard to impleaded them as party respondents.

5. The said two private respondents belong to Perumpalli Village. The writ petitioner belongs to Serkanur Village who claimed that, he is representing not only the Serkanur village people but also the Kallavoor village people, as these two villages had been sidelined by the Perumpalli village people, because the Temple concerned is located in the Perumpalli village.

6. Heard, Mr.S.Sathishrajan, learned counsel appearing for the petitioner who would submit that, if three village people joint together to perform poojas and conduct the festival, which was conducted so for several decades until recently, there could be no confusion or issues, however since the village people of Perumpalli village like the private respondents have claimed that, the Temple belongs to them and they decided to conduct the festival unilaterally without taking into confidence the village people of the other two villages, dispute arose. The issue started up only at that point, where though sincere attempts have been made by the revenue people to resolve the issue amicably, that could not yield any desired result. Therefore, these two village people have come to the conclusion that, the Temple in question can be taken over by the H.R&C.E., Department for their direct administration. In this regard, though representations have been made in the year 2015 and 2016, since those representations have not been considered, a direction can be issued to the H.R&C.E., Department to conduct an enquiry with all the three village people and accordingly, take a decision, as to whether, the Temple in question can be taken over by the H.R&C.E., Department under their Direct Management / Administration. Therefore, the learned counsel appearing for the petitioner seeks indulgence of this Court in this regard.

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7. Heard, Mr.NRR.Arun Natarajan, learned Special Government Pleader appearing for the official respondents who on instructions, would submit that, insofar as the Temple in question is concerned, it is the claim of the three village people that, the Temple belong to those three villages, the Temple in fact is situated in the Perumpalli village and the three villages are allegedly claiming that, the Temple exclusively belongs to their village and also allege that, all the rituals are being performed by them. In this regard, it is further learnt by the H.R&C.E., Department that, the suit in O.S. No. 69 of 2017 was filed before the Principal District Munsif Court, Tirupathur for an injunction against the petitioner and the said suit is still pending.

8. Though a peace committee meeting was conducted by the Tahsildar, Tirupathur in May and July 2015, the villagers of Perumpalli did not participate in the said meeting, but other two villagers participated. Therefore, an amicable settlement could not be reached, a report to that effect also has been filed by the Revenue Department.

9. Insofar as the present plea raised by the petitioner that, the representations have already been made in the year 2015 and 2016 seeking the H.R&C.E., Department to take over the administration of the Temple is concerned, no such representations have been given, however if that is the desire of the village people and in this regard, representation had been given, that representation was only given on 07.04.2018, pursuant to which, an enquiry was directed to be conducted by the Inspector of the H.R&C.E., Department who conducted the inspection and filed a report on 19.06.2018, wherein the Inspector has stated that, the de-facto trustees of the Temple have refused to co-operate with the enquiry conducted by the Inspector. Therefore, unless and until, the villagers co-operate with the H.R&C.E., Department to conduct an enquiry in the three villages, the said plea raised by the petitioner to take over the Temple for the administration of the H.R&C.E., cannot be decided.

10. Mr.F.Camilus Selva, learned counsel appearing for the seventh and eighth respondents would contend that, the Temple in fact is located in Perumpalli vilage and poojas were performed and the festivals were conducted only at the behest of the village people of the Perumpalli. If at all other two villagers are willing to join, they can join, but they cannot claim any right over the same. Therefore, in order to claim such right

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exclusively for the village people of Perumpalli, the seventh and eighth respondents already filed a Civil Suit in the said O.S. No. 69 of 2017 on the file of the District Munsif Court, Tirupathur, where a prayer of declaration to declare the said Temple only belongs to the people of Perumpalli village was sought for, where interim applications have been filed, wherein some orders have been passed and the said suit is still pending for trial.

11. The learned counsel appearing for the seventh and eight respondents would further contend that, if at all any amicable settlement could be arrived at by conducting an enquiry by the H.R&C.E., Department, certainly, the village people of the Perumpalli village and the seventh and eighth respondents would co-operate for the H.R&C.E., Department to conduct the enquiry in a smooth manner and ultimately, let the H.R&C.E., Department take a decision based on the input to be supplied to them by the three village people and accordingly, a decision can be arrived at by the H.R&C.E., Department, for which, the village people of Perumpalli would co-operate.

12. I have considered the said submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

13. It is the claim of the writ petitioner who claims to be the representative of the two village people namely Kallavoor and Serkanur, that the Temple concerned was the exclusive Temple of three village people namely Perumpalli, Kallavoor and Serkanur and for several decades from the forefathers, the poojas were performed and the earlier festivals were conducted jointly by all the three village people. Only in the recent past, there has been some division in this regard, according to the petitioner, where the seventh and eighth respondents as well as other village people belonging to Perumpalli village taking advantage of the situation where the Temple concerned is situated in their Village called Perumpalli claimed that, the Temple belongs to them exclusively and accordingly, they started performing the poojas as well as the other festivals on their own without taking into account or taking into confidence of the other two village people namely Kallavoor and Serkanur.

14. However, it is the case of the seventh and eighth respondents who belong to the Perumpalli Village, where the Temple is located is that, the Temple in question belong to their Village, i.e, Perumpalli exclusively and in order to get

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such a right by getting the declaratory decree, the said seventh and eighth respondents have already approached the Civil Court and filed the Civil Suit in O.S. No. 69 of 2017 as referred to above. In the said suit, the declaratory prayer has been sought to declare that, the Temple concerned exclusively belongs to the people of Perumpalli.

15. In this context, it has been pointed out both by the learned counsel appearing for the writ petitioner as well as the learned Special Government Pleader that, under Section 108 of the H.R&C.E., Act, there is a complete bar of filing the suit in respect of administration or management of religious institution. The relevant section, i.e., 108 of the H.R&C.E., Act, reads thus:

> "108. Bar of suits in respect of administration or management of religious institutions, etc:
>
> No suit or other legal proceeding in respect of the administration or management of a religious institution or any other matter or dispute for determining or deciding which provision is made in this Act shall be instituted in any Court of Law, except under, and in conformity with, the provisions of this Act."

16. Therefore, the learned Special Government Pleader would contend that, though it was the claim of the private respondents that, the suit has already been filed for a declaratory decree, such suit cannot be maintained in view of the statutory prohibition as provided under Section 108 of the H.R&C.E., Act. Therefore, if at all in this regard the issue raised by the three village people is to be resolved, the same can very well be resolved by the H.R&C.E., Department by conducting an enquiry in this regard, where if the three village people come with co-operation with the officials of the H.R&C.E., Department, certainly a fair enquiry would be conducted and ultimately, based on the outcome of the enquiry, a decision would be taken by the H.R&C.E., Department not only as to the nature of the Temple, whether it belongs to the three village people or otherwise as claimed by them and also whether the H.R&C.E., Department can take over the administration of the said Temple. Therefore, if utmost co-operation is ensured from the three village people to the H.R&C.E., Department, such an enquiry can very well be conducted by the H.R&C.E., Department and accordingly, the decision as indicated above can be arrived at.

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17. Insofar as the said arrangement of conducting an enquiry to take a decision by the H.R&C.E., Department, the learned counsel for the seventh and eighth respondents has made a submission that, certainly, the village people of Perumpalli also would agree and co-operate with the said enquiry to be conducted by the H.R&C.E., Department.

18. In this regard, the learned counsel appearing for the seventh and eighth respondents has fairly submitted that, though the suit has already been filed by the seventh and eighth respondents as stated supra in view of the bar under Section 108 of the H.R&C.E., Act, the fate of the suit is known to him. Therefore, instead of taking such a vain attempt by keeping the suit already been filed in the Civil Court for years together, if an amicable settlement could be arrived at and if there is a chance for such an amicable settlement, if such enquriy is conducted as contemplated or as proposed to be conducted by the H.R&C.E., Department. Certainly, the seventh and eighth respondents would withdraw the suit filed by them in the Civil Court and accordingly, co-operate with the H.R&C.E., Department to complete the enquiry.

19. In view of the said submissions made by the learned counsel appearing for the parties and having regard to the said factual matrix as has been projected herein above, this Court is inclined to dispose of this Writ Petition with the following orders:

> "(i) that there shall be a direction to the second and fifth respondents to take necessary steps to conduct a detailed enquiry in the three villages concerned namely Perumpalli, Kallavoor and Serkanur. In the said enquiry, the two issues can be decided, first, whether the Temple in question belong to all the three villages or it belongs only to the Perumpalli Village as claimed by the seventh and eighth respondents. Secondly, whether the Temple concerned can be taken over by the H.R&C.E., Department for continuous administration and in that case, what is the majority view of the three villagers can also be ascertained and accordingly, a report can be prepared by the fifth respondent or his subordinate who conducts the enquiry and shall be submitted before the Joint Commissioner concerned who is having jurisdiction over the area for further action. On receipt of such report, a decision can be taken by the Joint Commissioner concerned of the H.R&C.E., Department as to whether the Temple in question can be taken over for direct administration

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of the H.R&C.E., Department and such decision can be communicated to the three village people by taking atleast two representatives for each village for the purpose of such communication. The needful as indicated above shall be completed by the H.R&C.E., Department within a period of three months from the date of receipt of a copy of this order.

(ii) It is made clear that, all the three village people should give utmost co-operation to the H.R&C.E., Department to complete the enquiry as indicated above in a fair and amicable manner.

(iii) It is also made clear that, in the meanwhile, the seventh and eighth respondents shall take necessary steps to withdraw the suit in O.S. No. 69 of 2017 pending before the District Munsif Court, Tirupathur, such efforts shall be taken within a period of four weeks from the date of receipt of a copy of this order."

20. With these directions, this Writ Petition is disposed of. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS IV)

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Sub Assistant Registrar

vji

To

1. The Secretary to Government,
   The State of Tamil Nadu,
   Hindu Religious and Charitable Endowments Department,
   Secretariat, Chennai - 600 009.

2. The Commissioner,
   Hindu Religious and Charitable Endowments Department,
   Nungambakkam High Road,
   Chennai - 600 006.

3. The District Collector,
   Vellore District.

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4. The Revenue Divisional Officer,
   Tirupathur, Vellore District.

5. The Assistant Commissioner,
   Hindu Religious and Charitable Endowments Department,
   Vellore.

6. The Tahsildar,
   Tirupathur Taluk,
   Vellore District.

+1cc to M/s.S.Xavier Felix, Advocate, S.R.No.62360
+1cc to the Government Pleader, S.R.No.63226

W.P. No. 31335 of 2017

RGN[co]
NSK 15/02/2022

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