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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.10.2021

CORAM

THE HON'BLE MR.JUSTICE M.SUNDAR

W.P.NOS.33741 OF 2017 AND 24712 OF 2018

AND W.M.P.NOS.17766 OF 2018, 37376, 37377, 37378, 37379 OF 2017,
28784 & 28749 OF 2018

W.P.NO.33741 OF 2017

1. K.M.Ramesh Babu
S/o.Manikam

2. B. Mohanasundaram
S/o.Balakrishnan

... Petitioners

-Vs.-

1. The Joint Commissioner,
O/o.Joint Commissioner,
Hindu Religious & Charitable Endowments Department,
Salem - 636 001.

2. The Inspector,
Office of the Inspector, Salem Town,
Hindu Religious & Charitable Endowments Department,
Kottai Mariamman Temple Campus,
Salem - 636 001.

3. A/m.Kanika Parameswari Amman Devastham,
Rep. By its Managing Trustee,
A.B.Venugopala Chettiar,
8/417, Bazaar Street,
Salem - 636 001.

... Respondents

W.P.No.24712 of 2018

P. Balakrishnan
S/o.Late Padmanabhan

.... Petitioner

-vs.-



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1. The Commissioner,
Hindu Religious & Charitable Endowments Department,
Nungambakkam High Road,
Chennai - 600 034.
 2. The Joint Commissioner,
O/o. Joint Commissioner,
Hindu Religious & Charitable Endowments Department,
Salem - 636 001.
 3. The Assistant Commissioner,
Hindu Religious & Charitable Endowments Department,
Kottai Mariamman Temple Campus,
Salem - 636 001.
 4. The Inspector,
Hindu Religious & Charitable Endowments Department,
Kottai Mariamman Temple Campus,
Salem - 636 001.
 5. Arul Migu Kanika Parameswari Amman Devasthanam,
Represented by its Managing Trustee,
8/417, Bazar Street, Salem - 636 001.
 6. A.M. Venugopala Chettiar,
Managing Trustee,
Arul Migu Kanika Parameswari Amman Devasthanam,
8/417, Bazar Street,
Salem - 636 001.
- ...Respondents

Prayer in W.P.No.33741 of 2017:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for entire records pertaining to the impugned notice dated 12.07.2017 of the 1st respondent made in Na.Ka.No.6858/2017/B2 and impugned notice dated 15.11.2017 of the 2nd respondent made in Na.Ka.No.71/2017 and quash the same.

Prayer in W.P.No.24712 of 2018:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 to 4 herein to appoint a special officer for the 5th respondent Devasthanam exclusively to verify all the accounts for the preceding years, take stock of the entire movable, immovable properties and the jewels of the deity and prepare voters list and conduct election as per the scheme decree and thereafter hand over the management and affairs of the Arul Migu Kanika Parameswari Amman Devasthanam, 8/417, Bazar Street, Salem - 636 001, to the newly elected trustees.



For Petitioner in W.P.No.33741 of 2017 : Mr.V.Srikanth

For Petitioner in W.P.No.24712 of 2018 : Mr.G.Arul Murugan

For Respondents in W.P.No.33741 of 2017 : Mr.NRR.Arun Natarajan
Government Advocate
for R1 & R2
No Appearance for R3

For Respondents in W.P.No.24712 of 2018 : Mr.NRR.Arun Natarajan
Government Advocate
for R1 to R4
No Appearance for R5 & R6

COMMON ORDER

This common order will govern the captioned two writ petitions and all writ miscellaneous petitions [WMPs] thereat.

2. Captioned writ petitions pertain to a temple which goes by the name 'Sri Kannika Parameswari Temple situate at Big Bazaar Street, Salem District' [hereinafter 'said Temple' for the sake of convenience and clarity].

3. When the matter was taken up today, the trajectory which it took makes it unnecessary to dilate on facts, the same will be set out infra elsewhere in this order. Suffice to say that said Temple is governed by a scheme having been duly settled under 'The Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act No.22 of 1959)', which shall hereinafter be referred to as 'TN HR&CE Act' and various issues cropped up in the administration of said Temple leading to filing of the captioned writ petitions.

4. There is no dispute that the Trustees have to be appointed. In W.P.No.24712 of 2018, a counter affidavit has been filed by second respondent therein i.e., Jurisdictional Joint Commissioner i.e., Joint Commissioner, Salem and paragraph No.7 of the said counter affidavit is of relevance. Paragraph No.7 of counter affidavit of Joint Commissioner reads as follows:

'7. The averments in para 17 of the affidavit are partly correct and mostly false. It is true to say that this respondent had passed an order in Na.Ka.No.6858/2017/A2 dated 30.1.2018 to stop the election proceeding until further order is passed. This respondent submits that the temple management had sent a letter to appoint an election officer in the grade of Assistant Commissioner. Accordingly this respondent appointed the Assistant Commissioner, H.R & C.E of Arulmigu Sugavaneswarar Temple, Salem as election officer in Na.Ka.6858/2017/A2 dated 24.1.2018. It is further

submitted that the petitioner herein once again sent a



5. Regarding the suit mentioned therein i.e., O.S.No.65 of 2018, this Court is informed that the suit has been withdrawn unconditionally on 15.04.2019. The memo of withdrawal and judgement have also been placed before this Court. Scanned reproduction of memo of withdrawal and judgment are as follows:





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12/

Received the seal of the In the Court of the District Munsif Court,
Sales 636 007 Dated 15/04/2013

Mem recorded Sd/-xx

20/2

Copied by *[Signature]*

Read by: *[Signature]*

Compared by: *[Signature]*

Cer.. ——— Int.. ———

[Signature]
Superintendent

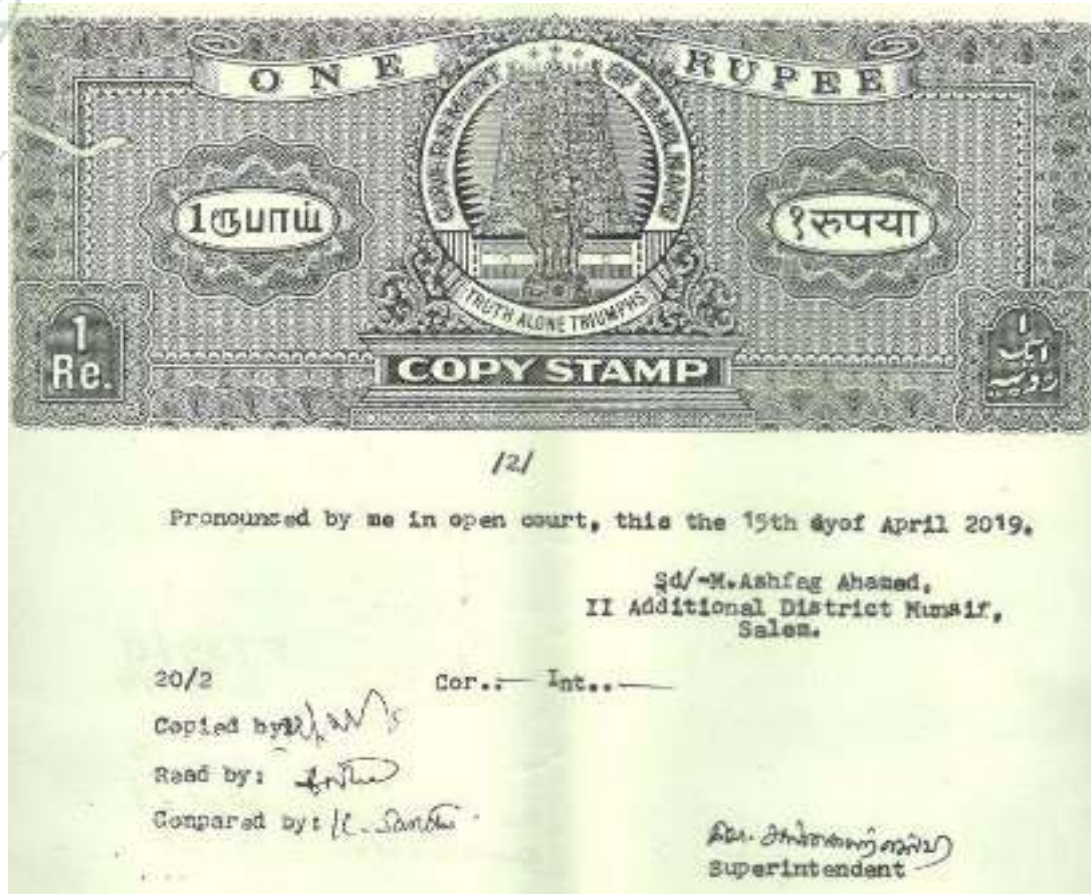


ONE RUPEE
1 ரூபாய்
1 Re.
COPY STAMP
IN THE COURT OF THE HONORABLE DISTRICT MUNSIF, SALEM.
Present: Thiru. M. S. Aiyar, B.A., B.L.,
District Munsif, Salem
Dated: 10th day of April 2019
10-04-2019

P. S. SankararajanPlaintiff
/s/ Thiru. S. Sankararajan
Sri. K. Sankararajan, Advocate, Salem Town
Salem-1, by its Managing trustee, A. S. Venugopal Chettiar...Defendant
This suit is posted for trial or dismissal and the case was
once before me in the presence of Thiru. S. Sankararajan, Advocate
for the plaintiff and of Thiru. S. Sankararajan, Advocate for defendant
and to-day memo filed by the plaintiff to dismiss the suit as
withdrawn and recorded in view of the same this court delivered
the following:-
Judgment
Suit for Permanent and Mandatory Injunctions: To restrain the
defendant not to conduct the election either on 4-4-2018 for
on any other subsequent days or dates; To direct the defendant to
prepare proper voters list for the suit temple consisting of only
the Arya Vysya community people residing in Big Beggar street and
small Beggar street area of Salem Town as per the scheme decree
and for cost of this suit.
Memo filed by plaintiff to dismiss the suit as withdrawn in
view of writ petition filed by plaintiff before Hon'ble High
Court, Memo recorded. Accordingly the suit is dismissed as
withdrawn. No cost.
75/4/19



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6. The aforementioned suit has been filed with a prayer to restrain TNHR&CE Department from conducting election on a particular day and seeking directions i.e., mandatory injunction qua TNHR&CE Department. This suit is clearly barred by Section 108 of TNHR&CE Act, which reads as follows:

'Section 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.'

7. However, as a legal quietus has been given to the suit by withdrawal, I deem it appropriate to leave it that in this order. Reverting to paragraph No.7 of counter affidavit of the Jurisdictional Joint Commissioner, the same is a complete answer to lis as conduct of elections for Trustees as per the scheme qua said Temple will give a quietus to the whole matter. Let the second respondent in W.P.No.24712 of 2018 i.e., Jurisdictional Joint Commissioner being Joint Commissioner O/o.Joint Commissioner, Hindu Religious and Charitable Endowments Department, Kottai Mariamman



Temple Campus, Salem, conduct election qua said Temple in accordance with the scheme as expeditiously as the official business of respondent would permit and in any event, within four months from today i.e., on or before 04.02.2022.

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8. The above draws the curtains on the captioned writ petitions. In the light of the trajectory as already alluded to supra, the captioned Writ Petitions are disposed of by making this simple order. Though obvious, it is made clear that no view or opinion on merits of the matter has been expressed in this order. Consequently, connected WMPs are disposed of as closed. There shall be no order as to costs.

mk

-sd/-

Assistant Registrar

True Copy

Sub-Assistant Registrar

TO

1. The Joint Commissioner,
O/o.Joint Commissioner,
Hindu Religious & Charitable Endowments Department,
Salem - 636 001.
2. The Inspector,
Office of the Inspector, Salem Town,
Hindu Religious & Charitable Endowments Department,
Kottai Mariamman Temple Campus, Salem - 636 001.
- 3.The Commissioner,
Hindu Religious & Charitable Endowments Department,
Nungambakkam High Road, Chennai - 600 034.
4. The Assistant Commissioner,
Hindu Religious & Charitable Endowments Department,
Kottai Mariamman Temple Campus, Salem - 636 001.
5. The Inspector,
Hindu Religious & Charitable Endowments Department,
Kottai Mariamman Temple Campus, Salem - 636 001.

+2 C.C. to MR.G.ARUL MURUGAN, ADVOCATE SR.NOS.51368,51369

W.P.No.33741 of 2017 and 24712 of 2018
and W.M.P.Nos.17766 of 2018, 37376, 37377, 37378,
37379 of 2017, 28784 & 28749 of 2018

NR(CO)
PM(21/10/2021)