



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MRS. JUSTICE S.ANANTHI

W.P. (MD) Nos.6005 and 6389 of 2021 and

WMP(MD) Nos.4697, 4700, 4988, 4989 and 4991 of 2021

(Through Video Conferencing)

W.P. (MD) No.6005/2021

Solamalai Poojari : Petitioner

Vs.

1.The Madurai Corporation
Represented by its Commissioner
Madurai.

2.The Assistant Commissioner
HR&CE Department
Madurai.

3.The Inspector
HR&CE Department
Madurai North
Madurai.

4.P.Manikandamoorthy Poojari : Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Mandamus to direct the respondents 1 to 3 to take immediate action against the illegal and unauthorized constructions and other activities including consecration activities being done by the 4th respondent in Arulmigu Karuppanasamy Temple also called as Arulmigu Sapparathadi Karuppanasamy Temple, Madurai, and to prevent the same including consecration activities.

For Petitioner : Mr.N.Dilipkumar

For Respondents : Mr.R.Murali
Standing counsel for R1
Mr.K.P.Narayanakumar for R2&R3
Special Government Pleader
Mr.Isaac Mohanlal for R4
for Mr.A.N.Ramanathan



W.P. (MD) No.6389/2021

K.Manoharan

: Petitioner

Vs.

- 1.The District Collector
Madurai District,
Madurai.
- 2.The Commissioner of Police,
Madurai City,
Madurai.
- 3.The Commissioner
HR&CE Department
Madurai.
- 4.The Assistant Commissioner
HR&CE Department
Madurai.
- 5.The Inspector of Police,
Tallakulam Police Station,
Madurai - 625 002
- 6.The Commissioner
Madurai Corporation
Madurai.
- 7.P.Manikandamoorthy Poojari
- 8.M.Bose Poosari
- 9.M.Solamalai
- 10.C.Durai Murugan
- 11.M.S.Gopal Poosari
- 12.K.Sastha Poosari

: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Mandamus to direct the respondents 1 to 6 to prevent the unauthorized construction, demolition of existing construction and retouching the idols of deity and to prevent from destroying the existing heritage at Arulmigu Sapparathadi Karuppanasamy Temple, Tallakulam, Madurai, carried out by the 7th to 12th respondents, including the



consecration function (Kumbhabishekam function) in the said temple by the 7th to 12th respondents and his men's.

For Petitioner : Mr.P.Pethu Rajesh

For Respondents : Mr.K.Mu.Muthu for R1, R2 and R5
Additional Government Pleader
Mr.K.P.Narayanakumar for R3&R4
Special Government Pleader

Mr.R.Murali for R6

Mr.Isaac Mohanlal for R7
for Mr.A.N.Ramanathan

COMMON ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

This is one more round of litigation surrounding administration and functioning of a Temple.

2. A suit was filed challenging the order rejecting the application filed seeking to declare the applicants as the hereditary trustees under Section 63(B) of the HR&CE Act, 1959. The said suit filed in O.S.No.317 of 1992 was dismissed. Against which, an appeal filed in A.S.No.877/1997 is pending on the file of this Court with an interim order of injunction.

3. The contesting respondent, placing reliance upon the said interim order, is managing the affairs of the temple and the present issue is with respect to the renovation or painting, as the case may be, followed by the conduct of Kumbhabishekam scheduled to be held between 22.03.2021 and 24.03.2021.

4. The learned counsel for the petitioner submitted that the group belong to the writ petitioner sought to preempt the said action by filing a suit in O.S.No.38/2021. Having failed to get an interim order, the present writ petition has been filed. Similarly, Section 145 of the Code of Criminal Procedure was sought to be invoked and it was also closed.

5. Mr.N.Dilipkumar, learned counsel for the petitioner in W.P. (MD) No.6005/2021 and Mr.P.Pethu Rajesh, learned counsel for the petitioner in W.P.(MD) No.6389/2021 submitted that the private respondent, namely, Mr.P.Manikanda Poojari has demolished the Gopuram, which can only be done by the expert and with the prior approval of the authorities constituted under the HR&CE Act. Reliance has been made on the judgment of the Division Bench of this Court in W.P.No.21840/2018 dated 09.11.2018 to the effect that the



temple being of vintage origin without any adequate permission from the concerned hereditary screening committee, no such activities can go on.

6. The learned Senior Counsel for the contesting respondent submitted that the administration is being done by virtue of the interim order passed by this Court and there was no reconstruction made, but only a repair work followed by painting.

7. The learned Special Government Pleader appearing for the HR&CE Department submitted that as per the orders passed by this Court without permission from the hereditary screening committee, no renovation work can take place.

8. Prima facie, we find that the private respondent has acted in contravention of the orders passed by the Division Bench of this Court, as referred to supra. Whether it is a case of renovation or painting, the structure can never be touched without permission. Photographs produced also indicate the aforesaid position. In such view of the matter, we only direct the respondent No.2, namely, the Assistant Commissioner, HR&CE Department, to look into the aforesaid aspect and even consider the appointment of an Executive Officer. After all, we are dealing with a case, where a suit filed is dismissed and appeal is only for injunction with respect to the general administration.

9. The other aspect is with respect to the ensuing Kumbhabishekam scheduled to be held next week.

10. From the submissions made by the learned Senior counsel for the contesting respondent, it appears that arrangements have been made. At this point of time, we do not want to stop the ongoing functioning. Though it is submitted by the learned counsel for the petitioners that without the remedial measures, the Kumbhabishekam may not be permitted to take place. On a practical view of the matter, we are inclined to permit the aforesaid exercise, as there is a renewed structure in place either in the guise of repair or by way of reconstruction. Thus, it will only be appropriate to permit the private/contestng respondent to continue the proposed conduct of Kumbhabishekam under the supervision of respondent No.2, namely, the Assistant Commissioner. We make it clear that by no stretch of imagination, the general public including other factions involved cannot be prevented from taking part. If necessary, the Assistant Commissioner of HR&CE Department shall have the police protection as well.

11. For conducting any other rituals, during or before Kumbhabishekam, the respondent No.2, if he is convinced that the same is required, is at liberty to do so. The submissions made by the learned Senior Counsel for the contesting respondent that all services in respect to the maintenance of the temple, such as



repair work and painting would be stopped henceforth stands recorded. If there is any breach, we would only call upon the respondent No.2., ie., the Assistant Commissioner for not taking appropriate action and therefore, the said authority shall make sure that there is no such activities that is likely to be carried on.

12. The learned counsel for the petitioners are also at liberty to file appropriate applications to vacate or modify the interim order granted.

13. The respondent No.2, namely, the Assistant Commissioner shall take appropriate action, after making thorough inspection of the temple, if he is satisfied that there is a violation of the Act and Rules with respect to the alleged construction made in the guise of repair work.

14. With these observations and directions, these writ petitions stand disposed of. No costs. Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

RR

Note:(i) In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The District Collector
Madurai District,
Madurai.

2.The Commissioner
Madurai Corporation
Madurai.

3.The Commissioner
HR&CE Department
Chennai.



4.The Assistant Commissioner
HR&CE Department
Madurai.

5.The Inspector
HR&CE Department
Madurai North
Madurai.

6. The Commissioner of Police,
Madurai City, Madurai.

7.The Inspector of Police,
Tallakulam Police Station,
Madurai - 625 002.

Copy to

1. The Section Officer,
Judicial Section,
Madurai Bench of Madras High Court, Madurai.
(to expedite the hearing of the first appeal.)

+1 CC to M/s.AN.RAMANATHAN, Advocate (SR-12560[F] dated
19/03/2021)

+1 CC to M/s.P.PETHU RAJESH, Advocate (SR-12588[F] dated 19/03/2021
)

+1 CC to M/s.N.DILIP KUMAR, Advocate (SR-12573[F] dated
19/03/2021)

+1 CC to M/s.SPL GP (SR-12772, 12782 & 12759[F] dated 22/03/2021)

+2 CC to M/s.R.MURALI, Advocate (SR-12655 & 12656[F] dated
22/03/2021)

Order made in
W.P. (MD)Nos.6005 and 6389 of 2021
Dated: 19.03.2021

TP(CO)
TR(23.03.2021) 6P 15C