



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.11.2021

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THE HON'BLE Mr.JUSTICE M.SUNDAR

W.P(MD) .No.10181 of 2015

and

M.P(MD) .No.2 of 2015

1. O.R.Srinivasa Iyengar
2. Ragupathi
3. Krishnan

.. Petitioners

-Vs.-

1. The Commissioner of
Hindu Religious and Charitable
Endowment Department,
Chennai.
2. The Joint Commissioner,
Hindu Religious and Charitable
Endowment Department,
Madurai.
3. The Assistant Commissioner,
Hindu Religious and Charitable
Endowment Department,
Madurai-625001.
4. Mrs.Rajeshwari Ammal
5. P.Nagulasamy Naidu

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration, declaring the action of the third respondent in breaking open Sri.Arulmigu Veetriruntha Perumal Kovil, Panangadi, Melur Taluk, Madurai District, seizing INR 83,200/- and other articles without issuing any notice to the petitioners and without conducting any enquiry and preventing the petitioners from performing the daily Poojas of Sri.Arulmigu Veetriruntha Perumal Kovil, Panangadi, Melur Taluk, Madurai District as illegal, arbitrary and in violation of principles of natural justice and consequently direct the respondents to permit the petitioners to perform daily poojas at Sri.Arulmigu Veetriruntha Perumal Kovil, Panangadi, Melur Taluk, Madurai District.



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For Petitioners : Mr.M.D.Pooranachare
For Respondents : Mr.A.Baskaran,
Addl.Government Pleader
for R1 to R3
Mr.C.Guhaseelarupan for R5
For R4 - No Appearance.

O R D E R

Captioned main writ petition pertains to a public temple which goes by the name 'Arulmigu Veetriruntha Perumal Temple situate in Panangadi Village, Melur Taluk, Madurai District' (hereinafter 'said Temple' for the sake of convenience and clarity).

2. In the hearing today, Mr.M.D.Pooranachare, learned counsel for the three writ petitioners, Mr.A.Baskaran, learned Additional Government Pleader for respondents 1 to 3 (official respondents) and Mr.C.Guhaseelarupan, learned counsel for fifth respondent (private respondent) are before this Court. To be noted, case file shows that fourth respondent has been duly served on 20.07.2015 but has not chosen to either enter appearance through counsel or come before this Court. It is also to be noted the name of the fourth respondent is duly shown in the cause list today.

3. The writ petitioners have sought a writ of declaration and the declaration is one that requests this Court to say that the action of the third respondent in breaking open said Temple seizing INR 83,200/- and other articles without issuing notice is bad. There is another limb of the prayer in the main writ petition and that limb pertains to poojas being performed in said Temple.

4. From the arguments of learned counsel and learned State counsel before this Court and the submissions of learned counsel for writ petitioners it comes to light that the fourth respondent's father one R.Nagulasamy Naidu was appointed as 'Hereditary Trustee' of said Temple by the erstwhile Board under the then British ruled India vide order No.560 of 1938 made in O.A.No.57 of 1938. To be noted, according to the writ petitioners, this order is dated 22.03.1938. Thereafter, after 'the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act 22 of 1959)' [hereafter 'TNHR&CE Act' for the sake of convenience and clarity] came into force, an application has been made under Section 63(b) of TNHR&CE Act. This application is O.A.No.14 of 2005 on the file of the second respondent. To be noted, Section 63(b) of TNHR&CE Act deals with Hereditary Trusteeship of a temple. To be noted, in the first page of the order dated 26.06.2009 passed by the first respondent, the number of O.A and the provision under which that application has been filed, have been wrongly mentioned as O.A.No.14



of 2008 filed under Section 64(b). This Court is informed that it is O.A.No.14 of 2005 filed under Section 63(b) of TNHR&CE Act. This 63 (b) petition appears to have been filed by the fourth respondent. This was dismissed on 18.08.2008 by the second respondent and the matter was carried in appeal by way of a statutory appeal under Section 69 of TNHR&CE Act by the fourth respondent vide A.P.No.38 of 2008. This appeal was allowed. As against this appeal, (as articulated in writ petitioners affidavit more particularly paragraph 5 thereat) a statutory suit under Section 70 of TNHR&CE Act being O.S.No.747 of 2012 on the file of the Subordinate Judge's Court, Madurai has been filed. In 2015, to be precise 18.06.2015 when the captioned writ petition came to be filed, it has been averred that the suit was pending but learned counsel for writ petitioners was not able to readily give the present status. Therefore, this Court verified the website qua e-Court services which reveals that the suit has been dismissed on 28.11.2017.

5. This Court is conscious of the fact that against aforementioned decree, a further appeal is available to any person aggrieved before the High Court under Sub-section (2) of Section 70 of TNHR&CE Act, but there is nothing to demonstrate that such an appeal had been preferred.

6. In the light of the aforesaid undisputed backdrop, learned counsel for writ petitioner contended that the writ petitioner should be permitted to do poojas in said Temple. Notwithstanding the expansive prayer, learned counsel for writ petitioners submitted that he abridges the prayer and says a simple permission to do poojas in said Temple would suffice.

7. Learned Additional Government Pleader i.e., State counsel for respondents 1 to 3 submitted that the third respondent had to necessarily act as the writ petitioners had locked the said Temple. Be that as it may, what is of significance is, learned State counsel drew the attention of this Court to the typed set of papers filed by the writ petitioners more particularly page 49 thereat, wherein notice dated 26.02.2015 has been issued to the first writ petitioner inter alia calling upon him to appear for an inquiry. It is after this i.e., in March of 2015 that the third respondent had to necessarily swing into action and when they did so, they found INR 83,000/- odd lying unclaimed in the said Temple besides articles. However, this Court is informed that poojas are being performed in the said Temple. This submission of learned State counsel made on instructions is recorded.

8. Learned counsel for fifth respondent, advertng to the counter-affidavit and typed set of papers filed submitted that he is the Hereditary Trustee of said Temple, he has been so appointed vide



proceedings bearing reference நி.மு.எண்.3798/05/சு.நாள் dated 07.07.2009 made by the second respondent-Joint Commissioner.

9. In the light of the aforesaid rival contentions, this Court finds that it is fairly simple to resolve the issue in the captioned matter. The reason is, in the light of the aforementioned trajectory, the nature of Hereditary Trusteeship of the office of Trusteeship qua said Temple and 63(b) Hereditary Trusteeship proceedings are not in dispute. It is also not in dispute that the first writ petitioner retired from service.

10. One other important facet and factum of significance in the captioned matter is the office of Trusteeship qua said Temple is Hereditary and Hereditary Trusteeship proceedings under Section 63 (b) has culminated in a statutory suit has been dismissed.

11. In the light of the aforesaid fact emerges clearly, as the said Temple is a public temple within the meaning of Sub-section (3) of Section 1 of TNHR&CE Act, the question of acceding to the prayer much less a declaration prayer as sought for does not arise.

12. This Court has repeatedly held that TNHR&CE Act is a self contained code. The sequitur is Chapter V proceedings under TNHR&CE Act are a self contained mechanism by themselves.

13. Further sequitur is, captioned writ petition fails and the same is dismissed. Though obvious it is made clear that this order will neither impede nor serve as an impetus in collateral proceedings under TNHR&CE Act. Consequently, connected MP is also dismissed. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS-III)

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/ /2021

Sub Assistant Registrar(CS)

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To

1. The Commissioner of
Hindu Religious and Charitable
Endowment Department,
Chennai.



2. The Joint Commissioner,
Hindu Religious and Charitable
Endowment Department,
Madurai - 625 001.

3. The Assistant Commissioner,
Hindu Religious and Charitable
Endowment Department,
Madurai 625 001.

+1 CC to M/s.C.GUHASEELARUPAN, Advocate (SR-34328[F] dated
12/11/2021)

+1 CC to M/s.SPL GP (SR-34453[F] dated 15/11/2021)

+1 CC to M/s.M.D. POORNAACHARE, Advocate (SR-34428[F] dated
15/11/2021)

W.P(MD) .No.10181 of 2015 and
M.P(MD) .No.2 of 2014
12.11.2021

SVN(CO)
KB(25.11.2021) 5P 7C