



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P. [MD]No.6383 of 2014

and

M.P (MD) .No.1 of 2014

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Sri Dhrovpathi Amman Temple,
Rep. by its administrative committee,
Dhinakaran, President,
R.S.Mangalam, Thiruvadanai Taluk,
Ramanathapuram District.

: Petitioner

Vs.

1. The Commissioner,
Hindu Religious & Charitable Endowments
Board,
Nungambakkam High Road,
Chennai.

2. The Joint Commissioner,
Hindu Religious & Charitable Endowments
Board,
Sivagangai District.

3. The Assistant Commissioner,
Hindu Religious & Charitable Endowments
Board,
Paramakudi,
Ramanathapuram District.

4. The Inspector/Fit Person,
Hindu Religious & Charitable Endowments
Board,
Thiruvadanai.

: Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari calling for the records of the third respondent in Se.Mu.Na.Ka.No.3537/12/A7-(55) dated 06.12.2012 and quash the same as illegal.

For Petitioner : Mr.J.Madhu

For Respondents : Mr.M.Ramesh, Government Advocate
for R1 to R4



O R D E R

This common order will govern the captioned main writ petition and the captioned miscellaneous petition.

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2. This order is to be read with in conjunction with and in continuation of earlier proceedings made in previous listing on 15.11.2021 which reads as follows:

'Mr.J.Madhu, learned counsel writ petitioner and Mr.SRA.Ramachandran, learned Additional Government Pleader on behalf of all the four respondents are before this Court.

2. The case file placed before this Court brings to light that a counter-affidavit dated 30.06.2021 has been filed by the third respondent. Though the counter-affidavit has been duly served on the learned counsel for writ petitioner on 08.07.2021, learned counsel for writ petitioner requests for one more copy and State Counsel graciously agreed to furnish another copy. Learned counsel for writ petitioner to collect the copy from the State Counsel before the next listing. Adjourned at the request of learned counsel for writ petitioner. List three weeks hence.

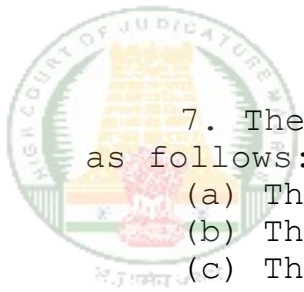
3. List on 06.12.2021.'

3. Adverting to the earlier proceedings Mr.J.Madhu, learned counsel for the lone writ petitioner and learned State counsel Mr.M.Ramesh submit that the pleadings have since been exchanged between the counsel and the main writ petition can be heard out.

4. In the main writ petition, an order dated 06.12.2012 bearing reference Se.Mu.Na.Ka.No.3537/12/A7-(55) made by the third respondent has been called in question. This order is hereinafter referred to as 'impugned order' for the sake of convenience and clarity.

5. In and by the impugned order, the third respondent has appointed a Fit person for 'Arulmigu Sri Dhrovpalthi Amman Temple situate in Rajasingamangalam, Thiruvadanai Taluk, Ramanathapuram District' (hereinafter referred to as 'said Temple' for the sake of convenience and clarity).

6. To be noted, the fourth respondent (jurisdictional Inspector of the 'Tamil Nadu Hindu Religious & Charitable Endowments Department' which shall hereinafter referred to as 'TNHR&CE Dept' for the sake of convenience and clarity) has been appointed as Fit person. To be noted, jurisdictional Inspector is the Inspector of TNHR&CE Dept, Thiruvadanai.



7. The impugned order is assailed on three grounds and they are as follows:

- (a) The writ petitioner has not been put on prior notice;
- (b) The said Temple is a denominational temple;
- (c) The said Temple is a private temple.

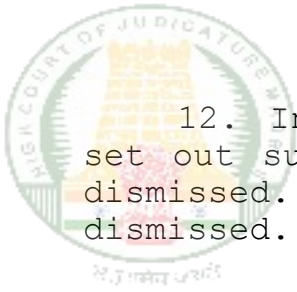
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8. Learned State counsel, advertng to the counter-affidavit submits that the deponent of the affidavit i.e., deponent of the writ affidavit, was never appointed as a trustee qua said Temple much less is there any administrative committee recognized by the TNHR&CE Dept under '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].

9. Therefore, I deem it appropriate to deal with the second and third grounds on which challenge to the impugned order are predicated. The second and third grounds as would be evident from submissions captured supra are that said Temple is a denomination temple and that is a private temple. It is not clear if these pleas have been taken alternatively. However, no shred of document that has been placed before this Court as part of the case file to show that the said Temple is either a denominational or a private temple. It was also asserted by State in the counter-affidavit (more particularly paragraphs 6 and 8 therein) that said Temple is neither a denominational temple nor a private temple. In other words, said Temple is a public temple.

10. If such temple is a public temple Sub-section (3) of Section 1 of TNHR&CE Act operates. There is nothing to demonstrate any exception under Section 4 of TNHR&CE Act. This Court is informed that said Temple is a non-listed temple under Section 46 of TNHR&CE Act. This means appointment of Fit person under Section 49(1) of TNHR&CE Act has to necessarily be read in conjunction with Section 47(1)(a) of TNHR&CE Act. A careful perusal of Section 49(1) read with 47(1)(a) of TNHR&CE Act makes it clear that question of putting anybody in notice before an order under Section 49(1) being made, does not arise. In this view of the matter, I am unable to find any infirmity in the impugned order.

11. Once a temple is a public temple, TNHR&CE Dept, has administrative control over the said Temple. This is by operation of statutory scheme i.e., of TNHR&CE Act Section 1(3) read with Section 4, therefore, the assertion of State in paragraph 8 of the counter-affidavit that said Temple is under the control of the Department and it never recognized the deponent of the writ affidavit in any capacity qua said Temple gains significance and this is clearly acceptable. Said Temple, therefore, is a public temple and it is a non-listed temple qua TNHR&CE Act. If that be the case, the prior notice point also fails.



12. In the light of the discussion and dispositive reasoning set out supra, captioned main writ petition fails and the same is dismissed. Consequently, captioned miscellaneous petition 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

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Board,
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Board,
Thiruvadanai.

+1 CC to M/s.SPL GP (SR-37611[F] dated 07/12/2021)

W.P. [MD]No.6383 of 2014

06.12.2021

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