



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.[MD]No.8276 of 2015

and

M.P.[MD]No.1 of 2015

WEB COPY

Saiva Pillaimar Samuthaya Nala Sangam,
Through its Secretary,
G.Ponnambalam,
S/o. Ganapathia Pillai,
Ilayamuthur,
Palyamkottai Taluk,
Tirunelveli District.

... Petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable
Endowments Department,
Chennai.

2.The Joint Commissioner,
Hindu Religious and Charitable
Endowment Department,
Tirunelveli.

3.The Inspector - East,
Hindu Religious and Charitable
Endowment Department,
Tirunelveli.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records in Na.Ka.No.15592/2013/m2 dated 27.04.2015 on the file of second respondent and approve the name of the persons elected as Trustees by the petitioner for Arulmigu Soundrapandia Vinayagar and Arulmigu Pulamadasamy Temple, Ilayamuthur, Tirunelveli District.

For Petitioner : Mr.S.Manohar
For Respondents 1 to 3 : Mr.M.Ramesh,
Government Advocate

O R D E R

Read this in conjunction with and in continuation of earlier proceedings made in the previous listing on 08.12.2021 which reads as follows:

'Mr.S.Manohar, learned Counsel on behalf of writ
petitioner and Mr.M.Ramesh, learned Government



Advocate on behalf of all the three respondents are before me.

2.This Court is informed that counter affidavit has been filed by respondents and the matter can be heard out.

3.This Court is also informed that the subject matter of writ petition pertains to what according to writ petitioner is a denomination temple and the lis is regarding appointment of trustees.

4.Learned State Counsel submits that the benefit of denomination temple decree will not enure in favour of the writ petitioner.

5.The aforementioned rival considerations will be considered in the next listing. Re-notified.

6.List on 13.12.2021.'

2.Today, Mr.S.Manohar, learned Counsel on record for lone writ petitioner and Mr.M.Ramesh, learned Government Advocate on behalf of all the three respondents are before me.

3.A counter affidavit has been filed on behalf of respondents. Pleadings are complete and the matter was taken up.

4.Subject matter of captioned writ petition is Arulmighu Soundrapandia Vinayagar and Arulmigu Pulamadasamy Temple situate in Ilayamuthur Village, Palayamkottai Taluk in Tirunelveli District [hereinafter 'said temple' collectively for the sake of convenience and clarity] and appointment of trustees to said temple is the central theme of the captioned writ petition.

5.In the captioned writ petition, a notice dated 27.04.2015 bearing Reference No.ந.க.எண்.15592/2013/அ2, calling for applications from eligible candidates for appointment as trustees of said temple has been assailed. This writ petition was filed more than half a decade ago. To be precise it was filed on 18.05.2015 and it has been pending for more than six [6] years now.

6.Be that as it may, at the time of inception of captioned writ petition, an interim order has been made on 20.05.2015 and the same reads as follows:

'Mr.J.Gunaseelan Muthiah, learned Government Advocate, takes notice for the respondents and seeks time to file counter.



2.This Court, on an earlier occasion, by order dated 11.11.2013 allowed the writ petition in W.P. (MD)No.16697 of 2013 setting aside the order of appointment of a fit person on the ground that the competent Civil Court in O.S.No.691 of 1994 has declared the temple in question as denominational in nature. Therefore, the impugned order ex-facie ought not to have been passed and hence the matter requires consideration.

3.Post the matter after four weeks for filing counter. In the mean while, there shall be an order of interim stay.'

7.This interim order has now been operating for more than six [6] years.

8.The crux and gravamen of the issue qua the lis has been captured in the previous proceedings in the listing on 08.12.2021.

9.On a careful perusal of the case file, it comes to light that there is a judgment dated 08.12.1996 made in O.S.No.691/1994 on the file of Principal District Munsif's Court, Tirunelveli. To be noted, the decree has not been placed before me. Adverting to the judgment in the suit filed by three individuals [appears to have been filed in respective capacity] learned Counsel for writ petitioner submits that vide this judgment there is a declaration that said temple is a denomination temple. However, the judgment talks about **விளம்புரை** [Declaration] and the same being acceded to but it does not throw light on what exactly is the declaration. Therefore, the declaratory judgment placed before me deprives me of specificity and I therefore leave that question open.

10.Be that as it may, learned Counsel submits that declaration is to the effect that it is a denomination temple. As already alluded to supra, I leave that question open. Assuming ie., on a demurrer even if it is a denomination temple it would come within the sweep and ambit of 'the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act 22 of 1959)' {hereinafter 'TN HR & CE Act' for the sake of brevity}. Therefore the impugned notice dated 27.04.2015 does not suffer from any infirmity. Other points that are being urged are in the nature of eligibility and qualification of aspirants. All this will come into play only when the notification is carried to its logical end which means the captioned writ petition is clearly premature. Therefore, I deem it appropriate to leave all questions open.

11.It is well open to the respondents to either continue the impugned notice and carry it to its logical end or issue a fresh



notice as six [6] years have elapsed.

12. Captioned Writ Petition is disposed of as closed in the aforesaid manner. Consequently, captioned Miscellaneous Petition is also disposed of as closed. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

MR

NOTE: *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 Commissioner,
Hindu Religious and Charitable
Endowments Department,
Chennai.

2.The Joint Commissioner,
Hindu Religious and Charitable
Endowment Department,
Tirunelveli.

3.The Inspector - East,
Hindu Religious and Charitable
Endowment Department,
Tirunelveli.

+1 CC to M/s.S.MANO HAR, Advocate (SR-38546[F] dated 14/12/2021)

+1 CC to M/s.SPL GP (SR-38619[F] dated 14/12/2021)

W.P.[MD]No.8276 of 2015
13.12.2021

NSN(CO)
KB(30.12.2021) 4P 6C