



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P. [MD]No.22432 of 2021

Vellaikannu

... Petitioner

Vs.

1.The Tahsildar,
Thirupathur Taluk,
Sivagangai District.

2.The Joint Commissioner,
Office of Hindu Religious Charitable and
Endowments Department,
Sivagangai District.

3.Marimuthu

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the second respondent to permit the petitioner and his brothers herein to perform Pooja Punaskaram during the tamil month of Karthigai and Maasi in Shri Chinnaiya Swamy Temple at Thenmapattu Village, Thirupathur, Sivagangai District based on the petitioner's representation dated 01.12.2021.

For Petitioner	:	A.Banumathy
For Respondents 1 & 2	:	Mr.T.Amjadkhan
		Government Advocate

O R D E R

In the captioned writ petition a public temple which goes by the name Shri Chinnaiya Swamy Temple situate in Thenmapattu Village, Thirupathur Taluk, Sivagangai District [hereinafter 'said temple' for the sake of convenience and clarity] is the nucleus. Tussle between the writ petitioner and third respondent [private respondent] regarding performing poojas in said temple for specified Tamil months is the central theme of the *lis*.

2.Ms.A.Banumathy, learned Counsel on record for writ petitioner is before me, Mr.T.Amjadkhan, learned Government Advocate accepted notice on behalf of respondents 1 and 2 [official respondents].

3.From the case file placed before me and the submissions made it comes to light that the captioned writ petition turns on a narrow compass and it can be disposed of by making an order which is not adverse to third respondent [private respondent] and by providing



adequate safety valve qua rights of the third respondent. Therefore, with the consent of learned Counsel on both sides main writ petition was taken up.

4.Learned Counsel for writ petitioner contends that said temple was originally founded by one Karuthadayan (common ancestor of writ petitioner and third respondent). Further short facts are that said Karuthadayan had two wives viz., Chinnapillai and Kathiraye; that the writ petitioner is a descendant qua Kathiraye branch and the third respondent is the descendant qua Chinnapillai branch; that the writ petitioner has the honour of performing poojas in said temple in the Tamil months of Karthigai and Maasi whereas the third respondent has the honour of performing poojas in said temple in the Tamil months of Vaikasi and Avani; that the writ petitioner is now being prevented by the third respondent from performing poojas in the two months in which writ petitioner has been performing poojas in said temple is the complaint.

5.Learned State Counsel who has accepted notice on behalf of official respondents, on instructions submits that this is a case of tussle between writ petitioner and third respondent both being descendants of a common ancestor and a peace committee meeting is to be called for by the third respondent [jurisdictional Revenue Tahsildar] and that the same will be convened within one [1] week from today ie., on or before **24.12.2021**.

6.In the light of the narrative thus far, it will suffice to hold that the writ petitioner and the third respondent can participate in the peace committee meeting so as to explore the possibility of an amicable resolution. To be noted, this is the safety valve qua third respondent [private respondent] which has been alluded to supra. In other words, it is made clear that first respondent shall put the third respondent on notice (for participation) qua peace committee meeting and this will protect the rights if any of the third respondent.

7.Before I conclude this order, it is made clear that the case before me is a claim for entitlement of a honour by custom / otherwise in said temple. This necessarily has to be decided by the second respondent under Section 63(e) 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}. The Revenue Tahsildar will only attempt to resolve the issues pertaining to law and order for smooth functioning but the ultimate decision regarding entitlement of honor qua writ petitioner as well as third respondent can be statutorily decided only by the second respondent Joint Commissioner under Section 63(e) which reads as follows:

'63.Joint Commissioner or Deputy Commissioner to decide certain disputes and matters.- Subject to the rights of suit or appeal hereinafter provided, the



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Joint Commissioner or the Deputy Commissioner, as the case may be, shall have power to inquire into and decide the following disputes and matter:-

(a) ...

(b) ...

(c) ...

(d) ...

(e) Whether any person is entitled, by custom or otherwise, to any honour, emolument or perquisite in any religious institution; and what the established usage of a religious institution is in regard to any other matter;''

8.A perusal of Section 63(e) will make it clear that the second respondent Jurisdictional Joint Commissioner is statutorily vested with the powers to decide such matters. Therefore, I make it clear that it is well open to writ petitioner and third respondent to approach the second respondent by way of an appropriate application under Section 63(e) if need arises. In the interregnum it is open to the first respondent to take a decision in the peace committee meeting which is to be convened within one [1] week from today.

9.The above drops the curtains on the captioned writ petition. Captioned writ petition is disposed of with the above observation and recording the aforesaid position. There shall be no order as to costs.

Sd/-

Assistant Registrar (Records)

// 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 Tahsildar,
Thirupathur Taluk,
Sivagangai District.



2.The Joint Commissioner,
Office of Hindu Religious Charitable and
Endowments Department,
Sivagangai District.

+1 CC to M/s.SPL GP (SR-39504[F] dated 20/12/2021)

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ORDER MADE IN
W.P.[MD]No.22432 of 2021
17.12.2021

NSN(CO)
GC(29.12.2021) 4P 4C