



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.12.2021

CORAM

THE HON'BLE MR. JUSTICE M.SUNDAR

W.P(MD) No.22425 of 2021

A.K.Muthumanickam

... Petitioner

Vs.

1.The Tahsildar,
Devakottai,
Sivagangai District.

2.The Assistant Commissioner,
Hindu Religious and Endowment Board,
Pudukkottai.

3.The Inspector of Police,
Manamelkudi Police Station,
Pudukkottai District.

4.The Revenue Division Officer,
Devakottai, Sivagangai District.
(R4 suo-mout implead as per order
of this Court dated 17.12.2021)

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Mandamus, to direct the first respondent to return the Arulmighu Sridevi Idol to the petitioner's temple on the basis of the proceedings of the 2nd respondent made in Na.Ka.No.1444/2005/A2 dated 18.06.2019.

For Petitioner	:	Mr.D.Rameshkumar
For Respondents	:	Mr.A.Baskaran, Additional Government Pleader.

O R D E R

Captioned writ petition pertains to a public temple which goes by the name 'Arulmighu Adhikesava Perumal Thirukoil' (hereinafter 'said temple' for the sake of convenience and clarity).

2. Mr.D.Rameshkumar, learned counsel for writ petitioner submits that said temple has a century old history, there are four idols in the said temple, viz., Boomadevi, Sridevi, Chakarathaalvar and Selvar. Learned counsel submits that on 02.03.2005, one of the four idols viz., idol of Sridevi went missing. A police complaint was preferred with the third respondent and the idol of Sridevi (hereinafter 'said idol' for the sake of convenience and clarity) was ultimately recovered by the third respondent police. It is also pointed out that this was on registering a FIR (First Information



Report) vide Crime No.37 of 2005 on the file of the third respondent *inter alia* for an alleged offence under Section 380 of Indian Penal Code.

3. Post recovery of said idol, writ petitioner wrote to the jurisdictional Assistant Commissioner of 'Tamil Nadu Hindu Religious and Charitable Endowments Department' (hereinafter 'TN HR&CE Dept.' for the sake of convenience and clarity) vide communication dated 31.05.2019, pursuant to which and on the basis of jurisdictional TN HR&CE Inspector report dated 14.06.2019 bearing reference Na.Ka.No.25/2005, the jurisdictional Assistant Commissioner of TN HR&CE Dept. (second respondent) wrote to the first respondent requesting him to return said idol which this Court is informed was found in a tank in the village. I do not want to dilate any further on this aspect of the matter as I am informed that the investigation is underway and the aforementioned Crime Number is at FIR stage.

4. Owing to the narrow compass on which the captioned matter turns, with the consent of Mr.A.Baskaran, learned Additional Government Pleader and writ petitioner's counsel, main writ petition was taken up. To be noted, learned State Counsel accepted notice on behalf of all the three respondents. Learned State Counsel after obtaining instructions submitted that said idol is not with the first respondent (Tahsildar) but it is with the jurisdictional Revenue Divisional Officer (RDO) i.e., RDO, Devakottai, Sivagangai District. Therefore, I deem it appropriate to *suo-motu* implead the jurisdictional RDO, i.e., Revenue Divisional Officer, Devakottai, Sivagangai District as fourth respondent. Registry to carry out necessary and consequential amendments in the case file and in the order copy before uploading / before issuing order copy / before despatching order copy to all concerned. Learned State Counsel accepts notice on behalf of the impleaded fourth respondent (RDO) also.

5. Learned State Counsel on instructions submits that said idol will be required for production in Court when the FIR is carried to its logical end in the jurisdictional criminal Court. Learned counsel for writ petitioner submits that said idol will not be consecrated in said temple and it can be made available in the Court as and when required. This Court is informed that said idol is still in the RDO office and it has not been submitted in the Court as no accused have either been identified or secured.

6. Captioned writ petition is disposed of with the following directives:

- a) the idol of Sridevi shall be produced (through the third respondent) in the jurisdictional Court i.e., Assistant Chief Judicial Magistrate, Special Court for Idol Cases, Kumbakonam, within a fortnight from today i.e., on or before 31.12.2021;

<https://hcservices.ecourts.gov.in/hcservices/> b) hereafter, the second respondent shall make an



application in the jurisdictional criminal Court for return of property i.e., return of said idol in accordance with the Criminal Procedure Code, 1973 within three weeks from 31.12.2021 i.e., on or before 21.01.2022 and the jurisdictional Magistrate shall decide the application on its own merits and in accordance with law as expeditiously as his business would permit and in any event within eight weeks from the date of presentation of application for return of property;

c) after the jurisdictional Magistrate decides the application for return of property if the said idol is returned to the second respondent, it is open to the writ petitioner to approach the second respondent for placing the idol in said temple and second respondent shall take a decision on the same in accordance with law ensuring that the requirements for co-operating with the investigation are met.

There shall be no order as to costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

To

- 1.The Assistant Chief Judicial Magistrate,
Special Court for Idol cases, Kumbakonam.
- 2.The Tahsildar,
Devakottai, Sivagangai District.
- 3.The Assistant Commissioner,
Hindu Religious and Endowment Board, Pudukkottai.
- 4.The Inspector of Police,
Manamelkudi Police Station,
Pudukkottai District.
- 5.The Revenue Division Officer,
Devakottai, Sivagangai District.

+1 CC to M/s.SPL GP (SR-39512[F] dated 20/12/2021)

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