



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 16.03.2021

DELIVERED ON : 19.04.2021

WEB COPY

CORAM

The Hon'ble Mr. Justice **G. ILANGO VAN**
W.P. (MD).No.21942 of 2017

K.Perumal

... Petitioner

Vs.

1. The Superintendent of Police,
Madurai (Rural), Madurai District.

2. The Assistant Commissioner (HR & CE)
Ellis Nagar, Madurai.

3. The Deputy Superintendent of Police,
Melur, Madurai District.

4. The Inspector of Police,
Melur Town Police Station,
Melur, Madurai District.

5. O.R.Srinivasa Iyengar

6. S.Krishnan

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to remove the fifth and sixth respondents from the temple premises and conduct inventory in order to save the properties of the petition temple and further ensure that the said fifth and sixth respondents should not enter into the temple premises as Archagar.

For Petitioner	: Mr.V.R.Venkatesan
For R1 to R4	: Mr.M.Ganesan
	Government Advocate (Crl. Side)
For R5 and R6	: No appearance

ORDER

The writ petition is filed seeking a writ of mandamus, directing the respondents 1 to 4 to remove the respondents 5 and 6 from the temple premises and ensure that they should not enter into the temple premises as Archagar.

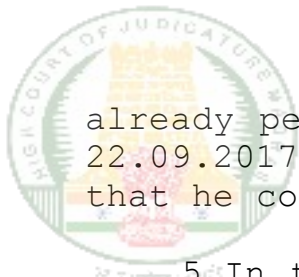


2.The facts in brief are as follows:-

One Srinivasa Iyengar, who is the fifth respondent herein was removed from the Archagar post on 02.03.2015 and the same was confirmed by the Joint Assistant Commissioner, by order dated 19.08.2009. Subsequent to that, he often locked the temple and gone to some other place. Because of that, worshippers suffered a lot during the festival season. He also removed pooja articles and other temple properties from the premises and inventory was taken in the presence of the Inspector of Police, Melur, Tahsildar, Melur, VAO and possession was also handed over to the trustee on 06.03.2015. By suppressing this fact, the fifth respondent obtained an ex-parte injunction from the District Munsif, Melur, as if, he was continuing to perform the pooja. On the strength of the interim order, several persons along with the fifth respondent broke open the lock and went inside. Against that order, Civil Revision Petition was filed by this petitioner against the order in I.A.No.157 of 2017 in O.S.No.256 of 2017 on the file of the District Munsif Court, Melur and injunction was also granted against the fifth respondent from continuing the pooja as Archagar. A representation was made by this petitioner to the Inspector of Police, Melur, to comply with the order in CRP.(MD)No.1760 of 2017. But no prompt action was taken. In spite of the above said orders, the fifth respondent is illegally performing the poojas. Moreover, the Assistant Commissioner of HR & CE Department has also given a complaint to the Inspector of Police, Melur. So, this writ petition is filed seeking a direction to the respondents 1 to 4 to remove the respondents 5 and 6 from the temple premises and ensure that they should not enter into the temple premises.

3.Heard the learned counsel on either side.

4.The dispute revolves around the Poosariship or Archagar in a public Temple `called `Veetriruntha Perumal Thirukoil' at Melur Taluk, Madurai District. The 5th respondent was originally working as Archagar in the temple, which is controlled by the second respondent herein namely, The Assistant Commissioner, (Hindu Religious and Charitable Endowment Department), Ellis Nagar, Madurai and he attained superannuation on 02.03.2015. So, he has permitted to retire from the service and a direction was also given to him to hand over the charge along with the properties of the temple to the new Archagar namely, in the presence of the hereditary trustee. But, the sixth respondent disputed the same and filed a suit in O.S.No.256 of 2017 for declaring him as a Poosariship and for consequential injunction etc., before the District Munsif Court, Melur. The plaint copy of the above said suit is enclosed with the typed set of papers and the date of the suit before the Court is 22.09.2017. As mentioned above, he was

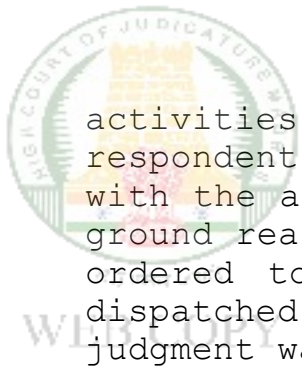


already permitted to retire from the Poojariship with effect from 22.09.2017. But, suppressing this, he has filed a suit stating that he continued to be the Archagar.

5. In the cause of action column on, he has mentioned that, on 12.09.2017, at about 12.00 p.m, he went to the temple for performing the pooja and at the time, the petitioner herein, who is the hereditary trustee, prevented him from entering into the temple. Along with the suit, he has also filed an application in I.A.No.1575 of 2017 seeking interim injunction and the same was granted. Against which, a petition has been filed in CRP(MD) No.1760 of 2017 in the above said suit and another CRP(MD)No.1761 of 2017 has also been filed to struck of the plaint. By an order dated, 13.10.2017, the Civil Revision Petitions were allowed and the order passed by the Trial Court granting temporary injunction was set aside. There is an observation by this Court to the effect that the Assistant Commissioner (Hindu Religious and Charitable Endowment Department), Madurai is the competent authority to remove the fifth respondent from the service and he was also removed from the service due to superannuation. Even after these events, the fifth respondent made trouble and refused to hand over the articles and refused to surrender the Poojariship also. He has illegally occupied the temple and rendered service. At one point of time, he illegally locked the temple and went away and so, by an order of the Assistant Commissioner, the lock was broke open and inventory was taken and the articles were handed over to the trustee namely, the petitioner herein. But, some of the personal articles of the fifth respondent was handed over to the wife of the fifth respondent and in order to that, she refused to sign. So, this shows that the fifth respondent was very much adamant in his conduct and tried to create all sort of troubles as if the temple is his own private property.

6. By a letter dated, 05.10.2017, the Assistant Commissioner (Hindu Religious and Charitable Endowment Department), Madurai to the Branch Manager of Indian Overseas Bank, Melur, Madurai District, the present Archagar, Muthumani Ayyankar must be permitted to operate the account of the temple. So, the fifth respondent has no legal right either occupy the premises or to perform the daily poojas and the activities of the fifth respondent is the clear encroachment and abuse of public service.

7. This Writ Petition is filed seeking to writ of mandamus, direction to the authorities to evict the respondents 5 and 6 from the temple premises and for ensuring that they should not enter into the temple premises. After hearing the learned counsel for the petitioner, I made a specific question as to whether the fifth respondent is still occupying the temple premises and doing poojas. He replied in the affirmative that still his illegal



activities continues. So, a direction was given to the second respondent herein on 04.03.2021, to visit the temple in person with the assistance of the fourth respondent herein and assess the ground reality and file a report before this Court. The report was ordered to be filed on 16.01.2021. Even though, the order was dispatched to the authorities, there was no response. So, the judgment was reserved on 16.03.2021.

8. So, in the facts and circumstances of the case, I am of the considered view that if they continue to occupy the same, even at present, this Court can direct the second respondent to remove the respondents 5 and 6 from the temple premises immediately with the help of the police officials. The authorities, attached to the (Hindu Religious and Charitable Endowment Department), Madurai are empowered to enter into the temple premises, at any time for the purpose of making inspection over the temple. So, the second respondent is well within his power to exercise the power. The second respondent is also directed to ensure that the respondents 5 and 6 shall not enter into the temple premises and for that purpose, he can also seek the police protection from the fourth respondent herein on proper representation. If any such necessity arise, the fourth respondent is directed to give full co-operation and protection to the second respondent to ensure the smooth functioning of the temple. The second respondent is directed to file report before the Registry of this Court of compliance.

9. With the above direction, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

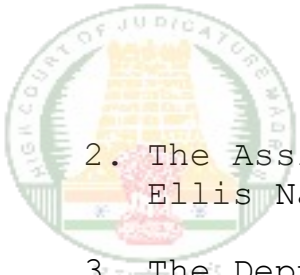
Sub Assistant Registrar (CS)

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 Superintendent of Police,
Madurai (Rural), Madurai District.

<https://hcservices.ecourts.gov.in/hcservices/>



2. The Assistant Commissioner (HR & CE)
Ellis Nagar, Madurai.

3. The Deputy Superintendent of Police,
Melur, Madurai District.

4. The Inspector of Police,
Melur Town Police Station,
Melur, Madurai District.

+1 CC to M/s.V.R.VENKATESAN, Advocate (SR-16831[F] dated
21/04/2021)

W.P. (MD) .No.21942 of 2017
19.04.2021

RS (06.05.2021) 5P 6C