



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.03.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Writ Petition No.4839 of 2021
and W.M.P.Nos.5456 and 5460 of 2021

1.R.Chandran
2.D.Bheeman
3.B.Kakkamalla Gowder

... Petitioners

Vs.

1.The Commissioner
HR & CE Department
Nungambakkam
Chennai-600 034.

2.The Joint Commissioner
HR & CE Department
Dr.Balasundaram Road
Coimbatore - 18.

3.The Assistant Commissioner
HR and CE Department
Dr.Balasundaram Road
Coimbatore - 18.

4.The Executive Officer
Sri Kadaithai Amman Temple
Kil-kundha, Kundha Bridge Post
The Nilgiris-643 219.

5.The Thakkar
Sri Kadaithaiamman Temple
Kil-kundha
Kundha Bridge post
The Nilgiris-643219.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of



Certiorari quashing the order of the 3rd respondent dated 19.10.2020 vide Nada.Na.Ka.763/2020/A6.

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For Petitioners : Mr.A.Sakthivel

For Respondents : Mr.S.Yashwanth
Additional Government Pleader

O R D E R

This Writ Petition is filed challenging the order of the 3rd respondent dated 19.10.2020.

2. According to the petitioners, they belong to Badaga Community of Kundai Seemai (area), Nilgiris District. As per the resolution of the Kundai Seemai dated 19.08.2019 in respect of their community deity Kadaiethai Amman Temple situate at Kil Kundha, the petitioners filed this Writ Petition in the representative capacity of their community comprising Kil Kundha and 17 other surrounding villages. Since the temple has no permanent income or property of its own, it is being managed by the direct contribution from Badaga community people of Kundai Seemai through their representatives nominated by the general body of Kundai Seemai. The Deputy Commissioner, HR & CE Department, Coimbatore, in his order dated 06.07.1993 framed a scheme that temple will be managed by the Trustees to be appointed from Badaga community, Kil Kundha and 17 other villages along with the Executive Officer, the 4th respondent herein, who was appointed by the Commissioner, HR & CE Department, Chennai. Even though the said scheme was framed in the year 1993, the Trustees were not appointed for more than 27 years. The Committee members of the petitioners community are only managing the affairs of the temple.

2(i) While so, there were some dispute with regard to selection of persons to the post of Parpathi. The Revenue Divisional Officer, Udhagamandalam, initiated proceedings under Section 145 Cr.P.C. and passed an order on 25.07.2019 for selection of one Parpathi, within one month from the date of his order. The post of Parpathi has nothing to do with the affairs of the temple and hence, the general body constituted three members Committee headed by the 1st petitioner to look after the affairs of the temple and authorised the petitioners to initiate legal action against the rival claimant Murugesan. The suit in O.S.No.74 of 2019 was filed by the petitioners 2 and 3 for declaration and permanent injunction on the file of the



Sub-Court, Udhagamandalam, against the said Murugesan and the same is pending. While so, the said Murugesan was sending frivolous petitions to various authorities. The petitioners filed O.A.No.14 of 2020 before the 2nd respondent under Section 64(5) of the Tamil Nadu Hindu Religious and Charitable Endowments Act (hereinafter referred to as 'HR & CE Act'), on 14.02.2020 to recognise their customary practice of administration of the temple. Due to COVID 19 pandemic situation, the said O.A. was numbered belatedly.

2(ii) In the meantime, the 3rd respondent, by order dated 19.10.2020, appointed the 5th respondent as a Fit Person to manage the temple. The 5th respondent took charge of the temple on 05.12.2020. The Committee headed by the 1st petitioner, nominated by their community, have got valuable right to manage the temple from and out of their own fund. Their valuable right cannot be divested under the guise of power under Section 49(1) of the HR & CE Act by the 3rd respondent in a casual manner. When the Executive Officer is in-charge and managing the temple, the order of the 3rd respondent appointing 5th respondent is invalid and illegal. The 3rd respondent, without issuing any notice to the petitioners, appointed 5th respondent as the Fit Person and therefore, the petitioners have come out with the present Writ Petition.

3.The respondents 4 and 5 filed counter affidavit and denied all the averments made in the Writ Petition. The learned Additional Government Pleader appearing for the respondents submitted that there is a dispute with regard to management of the temple. The suit in O.S.No.74 of 2019 and O.A.No.14 of 2020 filed by the petitioners were pending. Further there is a dispute between two rival groups and the temple was closed for some time. Till the suit is decided, the temple is being managed by the Executive Officer and Fit Person has been appointed. The learned Additional Government Pleader further submitted that petitioners having referred one portion of the order of the Revenue Divisional Officer, Udhagamandalam, dated 25.07.2019, failed to refer the other portion of the order. Due to rival claim, the 5th respondent was appointed temporarily to perform poojas and festival, to safeguard the properties of the temple and make efforts to get income for the temple, and to conduct litigation, if any, on behalf of the temple. The reason for appointing 5th respondent is valid. The 5th respondent will be managing the administration of the temple. The learned Additional Government Pleader further submitted that the Government has framed guidelines with regard to renovation of the temple and renovation of the temple can be carried only



after approval of the Regional Committee, the State Committee formed by this Court after obtaining Archaeological Expert opinion constituted by the Government by G.O.No.57789/2018, dated 31.12.2018. Hence the petitioners are not entitled to the relief sought for in the present Writ Petition and prayed for dismissal of the Writ Petition.

4. Heard the learned counsel appearing for the petitioners as well as the learned Additional Government Pleader appearing for the respondents and perused the entire materials on record.

5. According to the petitioners, the temple is managed by member of Badaga community of Kundai Seemai, Nilgiris District. The general body of Badaga community select a Committee to manage the affairs of the temple. It is admitted by the petitioners that at request of the Committee members, a draft scheme was framed by the Deputy Commissioner, HR & CE Department, Coimbatore. In the draft scheme, it was mentioned that temple is managed by the Executive Officer with assistance of Badaga community people and the Deputy Commissioner proposed a scheme for management of the temple by the Trustees to be appointed from Badaga community people of Kil Kundha and 17 other surrounding villages along with the Executive Officer appointed by the Commissioner, HR and CE Department. There is nothing on record to show that this draft scheme was approved and came into force. It is admitted by the petitioners that temple is managed by the Executive Officer along with the assistance of Badaga community people. Now the dispute arose among the community people with regard to selection of person to the post of Parpathi and one Murugesan is claiming himself to be the management of the temple. The suit in O.S.No.74 of 2019, filed by the petitioners 2 and 3 against the said Murugesan is pending on the file of the Sub Court, Udhagamandalam. Further, R.D.O. has conducted Peace Committee meeting and passed orders dated 25.07.2019 with regard to management of the temple. In view of uncontroverted material, there is a dispute with regard to selection of the person to the post of Parpathi and management of the temple. Pending suit, the 3rd respondent appointed the 5th respondent as Fit Person. For the above reasons, there is no error in the impugned order of the 3rd respondent appointing 5th respondent as Fit Person and I find no reason to interfere with the said order.



6. In the result, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

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SD/-

ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

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To

1. The Commissioner,
HR & CE Department,
Nungambakkam, Chennai-600 034.

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Sri Kadaieythai Amman Temple,
Kil-kundha,
Kundha Bridge post,
The Nilgiris-643219.

+1cc to Mr. A. Sakthivel, Advocate Sr.20297

+1cc to the Government Pleader Sr.20073

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svI[co]

srg 18/04/2022