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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2022

C O R A M

THE HON'BLE MS.JUSTICE V.M.VELUMANI

W.P.No.7652 of 2021
and W.M.P.Nos.8169 & 8170 of 2021

Porur Panguni Uthira Palkavadi Vel Pooja Sabha,
Porur, Chennai -116
Rep. by its President Mr.S.Damodaran,
No.20, Wireless Station Road,
Porur, Chennai - 600 116.

...Petitioner

Vs

1. The Principal Secretary,
Department of Tourism, Culture and
Religious Endowments,
Government of Tamilnadu,
Secretariat, Chennai - 600 009.
2. The Commissioner,
Hindu Religious & Charitable Endowments Department,
Nungambakkam, Chennai - 600 034.
3. The Joint Commissioner,
Hindu Religious & Charitable Endowments Department,
Nungambakkam, Chennai - 600 034.
4. The Assistant Commissioner,
Hindu Religious & Charitable Endowments Department,
Nungambakkam, Chennai - 600 034.
5. The Fit Person,
Arulmighu, Balamurugan Temple,
Eswaran Koil Street, Porur,
Chennai - 116.

...Respondents

Prayer Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, calling for the entire records pertaining to the impugned order dated 24.10.2019 in GO(MS). No.154 passed by the 1st respondent and quash the same and direct the respondents to handover the possession of the administration of Balamurugan Temple situated at Porur, Chennai - 116 to the petitioner.



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For Petitioner : Mr.C.K.Chandrasekkar

For R1 to R4 : Mr.S.Yashwanth
Additional Government Pleader [HR &CE]

ORDER

The petitioner has come out with the present Writ Petition challenging the impugned order dated 24.10.2019 in GO(MS).No.154 passed by the 1st respondent and to quash the same and for a direction to the respondents to handover the possession of the administration of Balamurugan Temple situated at Porur, Chennai - 116 to the petitioner.

2. According to the petitioner, the members of the petitioner Sabha have contributed and constructed Arulmighu Balamurugan Temple at Eswaran Koil Street, Porur, Chennai. The daily poojas and other festivals are performed by the members of the petitioner on their own contribution without collecting any donations or articles from the devotees. While so, the 4th respondent appointed the 5th respondent as fit person of the temple by order dated 02.12.2011 and called upon the petitioner to handover the management and administration of the temple. Challenging the same, the petitioner filed W.P.No.28865 of 2011 before this Court. This Court, by order dated 12.01.2012 disposed of the said Writ Petition directing the petitioner to avail statutory remedy of revision under Section 21 A of the HR & CE Act. Therefore, the petitioner filed Revision in R.P.No.1 of 2012, before the 3rd respondent challenging the order of appointment of fit person and the same was dismissed on 23.03.2017.

3. Against the said order, the petitioner filed W.P.No.7910 of 2017 before this Court. This Court, by order dated 04.04.2017 disposed of the Writ Petition directing the petitioner to file Revision before the 2nd respondent along with stay application. Therefore, the petitioner filed Revision in R.P.No.191 of 2017 D2 before the 2nd respondent. In the meanwhile, the respondents 3 to 5 with the help of the Police took possession of the temple and its administration. The 2nd respondent by order dated 21.11.2017 dismissed the Revision confirming the order of the 3rd respondent. Aggrieved over the same, the petitioner preferred Appeal in Revision Petition in R.P.No.6 of 2018 before the 1st respondent. The 1st respondent passed an order dated 24.10.2019 in G.O(MS).No.154 holding that the order of the 2nd respondent is valid. The 1st respondent rejected the Revision Petition on the ground that the subject temple is situated at the land belonging to Arulmighu Ramanatheswarar Temple. Challenging the said G.O.



(MS).No.154 dated 24.10.2019 passed by the 1st respondent, the petitioner has come out with the present Writ Petition.

4.The petitioner made various averments in the affidavit challenging the order of the 1st respondent. At the time of hearing, the learned counsel appearing for the petitioner restricted his arguments and submitted that the Revision was heard by the then Secretary but order was passed by the subsequent Secretary without giving any personal hearing to the petitioner and without giving any valid reason for dismissal and prayed for setting aside the impugned order.

5.Mr.S.Yashwanth, learned Additional Government Pleader [HR & CE] appearing for the respondents 1 to 4 submitted that the respondents 1 to 4 have no objection to set aside the impugned order and remand the revision to the 1st respondent for fresh hearing as the person who heard the matter has not passed the impugned order.

6.Heard the learned counsel appearing for the petitioner as well as learned Additional Government Pleader appearing for the respondents 1 to 4 and perused the materials on record.

7.In view of the submissions of the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 to 4, the impugned order dated 24.10.2019 in G.O(MS).No.154 passed by the 1st respondent is set aside and the Appeal in R.P.No.6 of 2018 is remanded back to the 1st respondent for fresh hearing with a direction to the 1st respondent to hear the appeal afresh, after giving personal hearing to the petitioner and pass orders on merits and in accordance with law, within a period of twelve (12) weeks from the date of receipt of a copy of this order.

8.With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

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To:

1. The Principal Secretary,
Department of Tourism, Culture and
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Secretariat, Chennai - 600 009.
2. The Commissioner,
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Nungambakkam, Chennai - 600 034.
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5. The Fit Person,
Arulmighu, Balamurugan Temple,
Eswaran Koil Street, Porur, Chennai - 116.

+2ccs Mr.C.K.Chandrasekhar, Advocate SR. No. 28100

W.P.No.7652 of 2021

SSN (CO)
PR (24/05/2022)