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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.No.5452 of 2022

P.Ayyil Naidu

.. Petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable Endowment Department,
Nungambakkam High Road,
Chennai 34.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
District Collectorate Complex,
Villupuram 605 602.

3.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
District Collectorate Complex,
Villupuram 605 602.

4.The Executive Officer,
Arulmighu Dharmachavadi Muthu Mariamman Temple,
Panchamadevi Village,
Villupuram Taluk & District.

5.V.Balaguru

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the 1st respondent to direct the respondents 2 to 4 to take suitable action in O.S.No.344 of 2015 on the file of the Principal District Munsif Court, Villupuram filed by the 5th respondent and to defend the suit, recover the temple properties of Sri Arulmigu Dharmachavadi Muthu Mariamman Temple its Survey Nos.445/1 and 445/3 in Panchamadevi Village Villupuram District based on the petitioner's representation dated 11.02.2022 within a stipulated time that may be fixed by this Court.



For Petitioner : Mr.P.Kannan
For RR1 to 4 : Mr.S.Yashwanth,
Additional Government Pleader

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O R D E R

This Writ Petition is filed seeking a direction to the 1st respondent to direct the respondents 2 to 4 to take suitable action in O.S.No.344 of 2015 on the file of the Principal District Munsif Court, Villupuram filed by the 5th respondent and to defend the suit, recover the temple properties of Sri Arulmigu Dharmachavadi Muthu Mariamman Temple its Survey Nos.445/1 and 445/3 in Panchamadevi Village Villupuram District based on the petitioner's representation dated 11.02.2022 within a stipulated time that may be fixed by this Court.

2.By consent of the learned counsel appearing for the petitioner as well as the learned Additional Government Pleader appearing for the respondents 1 to 4, the Writ Petition is taken up for final disposal at the admission stage itself.

3.According to the petitioner, Sri Arulmighu Dharmachavadi Muthu Mariamman Temple at Panchamadevi Village owns various properties and in possession and enjoyment of properties. The patta is in the name of the temple. The temple properties are managed by the respondents 1 to 3 and now under the control of 4th respondent Thakkar. While so, the 5th respondent has encroached the temple property, created fake documents and filed O.S.No.344 of 2015 on the file of the Principal District Munsif Court, Villupuram in respect of Survey Nos.445/1 and 445/3 for declaration and injunction. The authorities, in collusion with the 5th respondent, have not take any steps to defend the case and protect the property. In view of the same, the respondents 2 and 4, who are the defendants 3 and 4 in the said suit were set exparte and suit is posted for exparte evidence. Hence, the petitioner made representation dated 11.02.2022 to the 1st respondent to direct the respondents 2 to 4 to take suitable action in the pending suit in O.S.No.344 of 2015 and defend the suit to recover the temple properties. Since no order is passed, the petitioner has come out with the present Writ Petition.

4.Mr.S.Yashwanth, learned Additional Government Pleader appearing for the respondents 1 to 4, on instructions, submitted that the Thakkar has got impleaded himself as 5th defendant in O.S.No.344 of 2015 in I.A.No.506 of 2019 by the order dated 01.03.2019. The said I.A. was allowed and the respondents will take steps to file a petition to set aside the exparte order passed against the respondents 2 and 4 and file written statement.



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

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6. From the materials on record, it is seen that according to the petitioner, the temple authorities are not defending the suit filed by the 5th respondent against the temple. Considering the contention of the learned Additional Government Pleader appearing for the respondents 1 to 4 that they have taken steps to set aside the exparte order passed against the respondents 2 and 4 herein and to file written statement, without deciding the issue on merits, it is suffice to direct the 1st respondent to consider the representation of the petitioner dated 11.02.2022 and pass orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

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

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner,
Hindu Religious and Charitable Endowment Department,
Nungambakkam High Road, Chennai 34.
2. The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
District Collectorate Complex, Villupuram 605 602.
3. The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
District Collectorate Complex,
Villupuram 605 602.
4. The Executive Officer,
Arulmighu Dharmachavadi Muthu Mariamman Temple,
Panchamadevi Village, Villupuram Taluk & District.

+1 cc to Mr. P. Kannan, Advocate Sr. NO. 16046
+1 cc to Government Pleader Sr. NO. 16489

W.P.No.5452 of 2022

MT(CO)
A.SK(30/03/2022)