



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.No.5619 of 2020
and
W.M.P.No.6572 of 2020

N.Vasudevan

.. Petitioner

Vs.

1. The Commissioner,
The Hindu Religious and Charitable Endowment Department,
119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai - 600 034.
2. The Deputy Commissioner,
The Hindu Religious and Charitable Endowment Department,
Vellore.
3. The Joint Commissioner,
The Hindu Religious and Charitable Endowment Department,
Vellore.
4. The Assistant Commissioner,
The Hindu Religious and Charitable Endowment Department,
Vellore.
5. The Inspector,
The Hindu Religious and Charitable Endowment Department,
Ranipet,
Vellore District.

6. N.Kannan

.. Respondents

(R6 impleaded vide order of this Court dated
22.03.2022 made in W.M.P.No.26336 of 2021
in W.P.No.5619 of 2020]

Prayer: Writ Petition is filed under Article 226 of the
Constitution of India, praying for issuance of a Writ of
Certiorari, calling for records in Letter No.8459/2019/A1 dated
24.01.2020 on the file of the 3rd respondent and quash the same.



WEB COPY

For Petitioner : Mr.R.Rajarajan

For RR 1 to 5 : Mrs.M.Geetha Thamaraiselvan
Special Government Pleader

For R6 : Mr.S.Girissh
for Mr.M.Karthikeyan

O R D E R

The petitioner has come out with the present Writ Petition challenging the order of the 3rd respondent dated 24.01.2020.

2. According to the petitioner, the Mariamman Kanniamman Temple, comprised in Old S.No.108, T.S.No.29, Arcot Town, Vellore District is a private Temple, belonging to the family of the petitioner. The petitioner's ancestor, one Appasamy Mudaliar constructed the said Temple and was managing the affairs of the Temple and its properties. From the said Appasamy Mudaliar, the Temple and its properties were managed by generation to generation by the family members of the petitioner. The grandfather of the petitioner viz., Thulasisingha Mudaliar, leased out certain lands to 18 persons, who have put up thatched sheds and are residing there. The petitioner's father has continued to administer and manage the properties of the Temple. The petitioner's father died in the year 1996. After the death of the father of the petitioner, the petitioner was managing and administering the Temple and its properties. At that time, some of the tenants vacated and 13 tenants refused to pay the rent and also refused to vacate the property. Therefore, the petitioner filed 13 suits in O.S.Nos.33 to 45 of 2016, before the District Munsiff Cum Judicial Magistrate, Arcot, Vellore District, for mandatory injunction to remove the constructions and for delivery of vacant possession. The tenants filed petition under Section 9 of the City Tenants Protection Act in the said suits. While so, the tenants by using the political influence, instigated the 5th respondent to inspect the Temple. In such circumstances, the 5th respondent issued notice to the petitioner dated 27.06.2019. Therefore, the petitioner filed W.P.No.21676 of 2019 challenging the said notice dated 27.06.2019. This Court, recording the submission that the 3rd respondent / Joint Commissioner has conducted enquiry, directed the Joint Commissioner to continue the enquiry and pass final orders and also held that if the petitioner is aggrieved by the said order to be passed by the Joint Commissioner, it is open to him to challenge the same. The 3rd respondent / Joint Commissioner conducted the enquiry. The petitioner participated in the enquiry and submitted the records to substantiate his contention that Temple in question is private Temple and it is managed by the family members of the petitioner from generation



to generation. Based on the report of the 4th respondent, the 3rd respondent rejected the contention of the petitioner and directed the 4th respondent to act as per the orders of the Commissioner / 1st respondent. In such circumstances, the petitioner has come out with the present Writ Petition challenging the said order of the 3rd respondent dated 24.01.2020.

3.The learned counsel appearing for the petitioner submitted that the 3rd respondent did not consider the documents filed by the petitioner and erroneously rejected the contention of the petitioner and prayed for allowing the Writ Petition.

4.Mrs.M.Geetha Thamaraiselvan, learned Special Government Pleader appearing for the respondents 1 to 5 contended that the Temple is not a private Temple. General public are worshipping in the Temple and it is a public Temple. The petitioner is mismanaging the affairs of the Temple. After verification and inspection of the documents, the Department has conducted enquiry to find out whether the Temple in question is a Private Temple or Temple defined in the Act. No final orders have been passed and only the 1st respondent after enquiry, will pass final orders and prayed for dismissal of the Writ Petition.

5.The 6th respondent filed counter affidavit.

6.The learned counsel appearing for the 6th respondent submitted that the Revenue records are in the name of the Temple. The petitioner has sold the property of the Temple to third parties and in view of the order of status quo granted by this Court on 06.03.2020, the purchasers are putting up construction. He further submitted that the petitioner has not put up a permanent hundial, but at the time of every pooja, a temporary hundial is placed and the petitioner is taking all the collection for his personal use. In view of the mismanagement of the Temple properties by the petitioner, the properties of the temple is alienated and Temple is deprived of income from its properties. In view of the above mismanagement of the petitioner, the Hindu Religious and Charitable Endowments Department is taking action to conduct enquiry with regard to status of the Temple and prayed for dismissal of the Writ Petition.

7.Heard the learned counsel appearing for the petitioner, learned Special Government Pleader appearing for the respondents 1 to 5 as well as the learned counsel appearing for the 6th respondent and perused the entire materials on record.

8.From the materials on record, it is seen that it is the case of the petitioner that the Mariamman Kanniamman Temple,



comprised in Old S.No.108, T.S.No.29, Arcot Town, Vellore District is the family Temple of the petitioner from generation to generation. The Temple was constructed by one Appasamy Mudaliar, the ancestor of petitioner. From that day onwards, the Temple and its properties are managed by the family members of the petitioner. At present, the petitioner is managing and administering the affairs of the Temple and its properties. On the other hand, it is the case of the respondents that based on certain complaint from tenants, the 5th respondent inspected the Temple, the 4th respondent issued notice to the petitioner for enquiry and the 3rd respondent conducted the enquiry. The specific case of the petitioner before the 3rd respondent is that the Temple is a private family Temple. To substantiate this contention, according to petitioner, he produced the Partition Deed and Will to show that the Temple is a private Temple. From the impugned order, it is seen that the 3rd respondent has not given any finding or reason for not accepting the contention of the petitioner. On the other hand, relying on the report of the 4th respondent, the 3rd respondent rejected the claim of the petitioner. The 3rd respondent has not passed any final order to instruct the 4th respondent to act as per the orders of the 1st respondent / Commissioner. In as much as the 3rd respondent has rejected the contention of the petitioner only based on the report of the Assistant Commissioner / 4th respondent and has not given any finding with regard to the status of the Temple, whether it is private Temple or public Temple, the order of the 3rd respondent rejecting the claim of the petitioner is set aside. The 1st respondent is directed to conduct enquiry to decide the status of the Temple and pass orders on merits after giving opportunity to the petitioner and the Temple authorities, the 6th respondent and other interested persons if any, within a period of four weeks from the date of receipt of a copy of this order. Till final orders is passed, the petitioner shall continue to manage the affairs of the Temple, but he is restrained from alienating the properties.

9. With the above directions, the Writ Petition is disposed of. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar(CS III)

/True Copy//

Sub Assistant Registrar

krk



To

1. The Commissioner,
The Hindu Religious and Charitable Endowment Department,
119, Uthamar Gandhi Salai,
Nungambakkam, Chennai - 600 034.
2. The Deputy Commissioner,
The Hindu Religious and Charitable Endowment Department,
Vellore.
3. The Joint Commissioner,
The Hindu Religious and Charitable Endowment Department,
Vellore.
4. The Assistant Commissioner,
The Hindu Religious and Charitable Endowment Department,
Vellore.
5. The Inspector,
The Hindu Religious and Charitable Endowment Department,
Ranipet, Vellore District.

+2ccs to Mr.M.Karthikeyan, Advocate, S.R.No.25239
+1cc to Mr.R.Rajaraman, Advocate, S.R.No.24839
+1cc to the Government Pleader, S.R.No.25569

W.P.No.5619 of 2020

GSM[co]
NSK 26/04/2022