



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.No.6781 of 2022

and

W.M.P.Nos.6863, 6864, 9010 & 9710 of 2022

Jaganathan

.. Petitioner

Vs.

1.The Joint Commissioner (HR & CE),
Erode.

2.The Assistant Commissioner (HR & CE),
Namakkal.

3.The Thakkar / Executive Officer,
Arulmigu Kandhasamy Thirukovil,
Kalipatti, Thiruchengode Taluk,
Namakkal District.

4.The Sub-Divisional Magistrate &
Revenue Divisional Officer,
Thiruchengode,
Namakkal District.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records with respect of the impugned proceedings of the 3rd respondent dated 12.03.2022 and quash the same.

For Petitioner : Mr.R.Nalliyappan

For RR 1 to 3 : Mrs.M.Geetha Thamaraiselvan
Special Government Pleader

For R4 : Mr.S.Arumugham
Government Advocate

O R D E R

The petitioner has come out with the present Writ Petition challenging the impugned proceedings of the 3rd respondent dated 12.03.2022.



2. According to petitioner, Arulmigu Vinayakar, Mariamman, Karuppanar and Muniappan Temples situated at Kottapalayam Village, Namakkal District belongs to Kongu Nattu Vellala Gounder Community members who are residing at Kottapalayam Village. There was some rival claim with regard to management of the Temple. One Ramakrishnan belonging to 'A' party gave a representation dated 22.12.2018 to conduct Kumbhabhishegam without observing any Excommunication or Oor Kattupadu or discrimination on caste or creed or money among the villagers in Kottapalayam village and filed W.P.No.34663 of 2018 before this Court. This Court, recording the report of the 4th respondent herein, by the order dated 25.02.2019, directed the 4th respondent herein to dispose of the representation of the said Ramakrishnan and communicate the same to him. The petitioner belongs to 'B' party. The petitioner and 'B' party members are co-operating in conducting peace committee meeting conducted by 4th respondent, whereas 'A' party people are not co-operating in conducting peace committee meeting. While so, by non-speaking order dated 28.08.2019, the 2nd respondent appointed the 3rd respondent as fit person for administration of the Temple. The petitioner and others challenged the said order dated 28.08.2019 before the 1st respondent by filing R.P.No.3 of 2019 under Section 21(A) of the HR & CE Act. The petitioner also filed O.A.No.1 of 2020 before the 1st respondent to frame scheme for administration of the Temple under Section 64(1) of the HR & CE Act. Both R.P.No.3 of 2019 as well as O.A.No.1 of 2020 are pending. While so, the 4th respondent proceeded with enquiry and without properly considering the facts, directed the 3rd respondent to administer the Temple by the proceedings dated 30.12.2021. The said order was challenged before this Court in CrI.O.P.No.3685 of 2022 under Section 482 of CrPC and the same is pending. While above proceedings are pending, the 3rd respondent, by the impugned proceedings dated 12.03.2022, directed the petitioner to hand over the entire records and materials of the Temple on or before 21.03.2022. Challenging the said order of the 3rd respondent dated 12.03.2022, the petitioner has come out with the present Writ Petition.

3. The learned counsel appearing for the petitioner submitted that the impugned order is issued pursuant to the order of the respondents 2 & 4. Both the orders are under challenge. The impugned order is issued based on the order of the 2nd respondent dated 03.09.2019. The 3rd respondent failed to consider that even after the order of 2nd respondent only the community people are administering the Temple. The 3rd respondent has no right to convert the community temple as public temple. The power of the 3rd respondent is very limited. He can deal only with accounts and administration of the Temple. Instead, the 3rd respondent by the impugned order, altered the nature of the Temple. The learned counsel appearing for the petitioner further submitted



that inspite of the interim order granted by this Court on 22.03.2022, the 3rd respondent broke open the Temple and has taken over the charge and prayed for allowing the Writ Petition.

4.The 3rd respondent filed counter affidavit and denied all the averments made by the petitioner.

5.Mrs.M.Geetha Thamaraiselvan, learned Special Government Pleader appearing for the respondents 1 to 3 submitted that there is a rival claim and dispute with regard to management of the Temple. Due to the said rival claim, there is law and order problem. In view of the same, the 3rd respondent was appointed as Thakkar for administration of the Temple. A peace committee meeting was conducted by the 4th respondent between 'A' party and 'B' party. No settlement was arrived at in the said peace committee meeting. The 4th respondent directed that the management of the Temple to be handed over to the 3rd respondent. To avoid rivalry between two groups and law and order problem, the 3rd respondent issued the impugned proceedings, which is valid and legal. The learned Special Government Pleader appearing for the respondents 1 to 3 further submitted that even before receiving the communication from the Special Government Pleader, the 3rd respondent has taken possession of the Temple on 21.03.2022. The 3rd respondent has not disobeyed any order of this Court. In order to maintain peace in the village and to conduct all the religious function in the Temple, possession was taken over by the 3rd respondent. There is no illegality in the impugned order and prayed for dismissal of the Writ Petition.

6.Heard the learned counsel appearing for the petitioner, learned Special Government Pleader appearing for the respondents 1 to 3 as well as the learned Government Advocate appearing for the 4th respondent and perused the entire materials on record.

7.From the materials on record it is seen that there was a dispute with regard to management of the Temple as two groups claim right over the management of the Temple. As per the earlier order of this Court dated 25.02.2019 made in W.P.No.34663 of 2018, the Thasildar, Tiruchengode Taluk, Namakkal District filed status report and subsequently, the 4th respondent conducted peace committee meeting. No settlement was arrived at in the said peace committee meeting. Considering the rival claim and law and order problem, the 4th respondent directed the 3rd respondent to take over the management of the Temple. In the criminal case filed by petitioner and others challenging the order of the 4th respondent, this Court has not granted any interim order. Similarly, in R.P.No.3 of 2019 filed by the petitioner and others challenging the appointment of Fit Person also there is no order of stay. The learned counsel appearing for the petitioner has not denied that there is a



rival claim with regard to management of the Temple and due to law and order problem, a peace committee meeting was conducted by the 4th respondent and no settlement was arrived at in the said peace committee meeting. In view of the rival claim with regard to management of the Temple, pendency of application before the 1st respondent in O.A.No.1 of 2020 for framing scheme, the present order of the 3rd respondent is not interfered with.

8.The contention of the learned Special Government Pleader appearing for the respondents 1 to 3 that even before receiving intimation from the learned Special Government Pleader and interim stay of this Court dated 22.03.2022, possession was taken over by the 3rd respondent on 21.03.2022 is acceptable. It is open to the petitioner and others to initiate proceedings based on the order passed in R.P.No.3 of 2019 as well as in O.A.No.1 of 2020. The 1st respondent is directed to dispose of the application in O.A.No.1 of 2020 as expeditiously as possible, in any event not later than eight weeks from the date of receipt of a copy of this order.

9.The learned counsel appearing for the petitioner contended that 3rd respondent, in collusion with other group, is creating problem and hence, the petitioner and others sent representation to the 1st respondent to take action against the 3rd respondent. It is open to the petitioner and others to send a fresh representation to the 1st respondent. If any such representation is received, the 1st respondent is directed to consider the representation of the petitioner and others and pass orders on merits and in accordance with law.

10.With the above directions, the Writ Petition is dismissed. Consequently, W.M.P.Nos.6863 & 6864 of 2022 are closed. In view of the dismissal of W.P.No.6781 of 2022, no further order is necessary in W.M.P.Nos.9010 & 9710 of 2022. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Joint Commissioner (HR & CE),
Erode.



2.The Assistant Commissioner (HR & CE),
Namakkal.

3.The Thakkar / Executive Officer,
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Kalipatti, Thiruchengode Taluk,
Namakkal District.

4.The Sub-Divisional Magistrate &
Revenue Divisional Officer,
Thiruchengode,
Namakkal District.

+1cc to Mr.R.Nalliyappan, Advocate, S.R.No.27605

+1cc to the Special Government Pleader(HR & CE), S.R.No.28710

W.P.No.6781 of 2022

NR(CO)
GN(24/05/2022)