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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2022

CORAM

THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN

W.P. No.21679 of 2018
and
WMP Nos.25426 & 25427 of 2018

R. Chandran

...Petitioner

Vs

1. Union of India,
rep. by its chief Secretary,
Government of Pondicherry,
Pondicherry.
 2. The Commissioner,
Hindu religious Institutions & Wakp Department,
Government of Pondicherry,
Pondicherry.
 3. The Special Officer,
Sri Muthuputhalai Ezhai Mariyamman Temple,
Chevarayapet, Muthiyalpet,
Puducherry.
 4. Thirumal Murugan
- ...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned letter bearing No.1017/CHR/T10/LGP/2018/151 dated 19.02.2018 on the file of the 2nd respondent Hindu Religious Institutions & Wakp Department, Government of Puducherry and quash the same . Consequently, restore the original name of the temple, i.e. Sri Muthu Puthalai Ezhai Mariamman Temple, Muthiyalpet Puducherry" .

For petitioner ... Mr .U. Karunakaran

For respondents ... Mr.J. Kumaran,
Government Advocate
for R1 to R3

... Mr.P.Sankaranarayanan, for R4



ORDER

This writ petition has been filed challenging the order passed by the 2nd respondent, dated 19.02.2018 .

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2.The grievance of the petitioner is that the above said temple belonged to four villages, namely , Periyapet, Solaitaandavan Kuppam Kanadaasan Veedhi, Pavakaranpet Muthiyalpet and Chevarayapet. Now, the people, who belong to Chevarayapet village, are claiming exclusive right over the temple and filed a suit in O.S.No.566 of 2004 on the file of the Principal District Munsif Court, Pondicherry, seeking for a Mandatory Injunction directing the HR & CE Department, Pondicherry, to send all the communications by inserting the name of Chevarayapet in future, wherein, the petitioner is shown as 8th defendant and the same is pending. Now, pending suit, at the instigation of the villagers, the 2nd respondent Commissioner has passed the impugned order directing the parties to mention the name of Chevarayapet arbitrarily, without conducting any enquiry, and also without hearing the petitioner. Hence, the present petition.

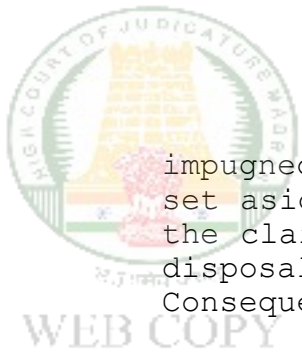
3.The learned counsel appearing for the fourth respondent submitted that the temple was only constructed in Chevarayapet. Even in the Government Order issued in the year 1959, only "Chevarayapet" has been inserted. Now, the petitioner is claiming right over the temple, without any right whatsoever. Considering those circumstances, the impugned order has been passed by the second respondent and there is no irregularity in it.

4.The learned counsel for the respondents 1 to 3 also make submissions supporting the impugned order.

5.I have considered the submissions made on either side and perused the materials available on records carefully.

6.Admittedly, the suit, filed by the 4th respondent seeking mandatory injunction to insert the name of Chevarayapet, is pending, and the same is also contested by the petitioner herein. The issues that, whether the temple belongs to one village or four villages is to be decided on evidence by the Civil Court. Unless the issue is decided by the Civil Court, the 2nd respondent cannot pass the impugned order, that too, without conducting any enquiry whatsoever. Hence, the impugned order is passed in violation of Principles of natural Justice and in total non application of mind. Hence, the impugned order is liable to be set aside.

7.Accordingly, this Writ Petition is allowed and the



impugned order passed by the 2nd respondent, dated 19.02.2018 is set aside . Further, the 2nd respondent is directed to consider the claim of the petitioner as well as the 4th respondent, after disposal of the civil suit between the parties. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

mrp

To

1. The Chief Secretary,
Union of India,
Government of Pondicherry,
Pondicherry.
2. The Commissioner,
Hindu religious Institutions & Wakf Department,
Government of Pondicherry,
Pondicherry.
3. The Special Officer,
Sri Muthuputhalai Ezhai Mariyamman Temple,
Chevarayapet, Muthiyalpet,
Puducherry.

+1cc to M/s.U.Karunakaran, Advocate, S.R.No.12191
+1cc to M/s.R.Rajesh, Advocate, S.R.No.12266
+1cc to the Government Pleader, Puducherry, S.R.No.11693

W.P. No.21679 of 2018

RGN(CO)
RGA(31/03/2022)