

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2022

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.15852 of 2022

V.Sivakumar

...Petitioner

Vs

1. The Commissioner,
Hindu Religious and Charitable
Endowments Department,
Nungambakkam High Road,
Nungambakkam, Chennai - 600 034.
2. The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department,
No.8, River Side Street,
Pudupalayam, Cuddalore - 607 001.
3. The Assistant Commissioner,
Hindu Religious and Charitable
Endowments Department,
Cuddalore - 607 001.
4. The Inspector,
Hindu Religious and Charitable
Endowments Department,
Cuddalore - 607 001.
5. The Branch Manager,
Indian Overseas Bank,
Kumarapuram,
Cuddalore Taluk,
Cuddalore District.
6. Rudramurthi

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records and quash the impugned order dated 01.11.2021 passed by the second respondent in Na.Ka.No.4005/2021-1/A4 and consequently directing first to fourth respondents to hand over

the management of A/M Sinthamani Vinayagar Thirukkoil, Karamanikuppam, Cuddalore Taluk, Cuddalore District to the petitioner.

For Petitioner : Mr.D.Baskar

For Respondents :

For R1 to R4 : Mr.N.R.R.Arun Natarajan
Special Government Pleader

ORDER

Mr.N.R.R.Arun Natarajan, learned Special Government Pleader takes notice on behalf of the first to fourth respondents.

2. Heard the learned counsel for the petitioner and the learned Special Government Pleader for the first to fourth respondents.

3. This is the second round of litigation at the behest of the petitioner.

4. Earlier, the petitioner had filed W.P.No.23144 of 2018, for the following relief:-

"to direct the fifth respondent to re-transfer the Savings Bank A/c.No.182401000010105 so as to be operated by the petitioner."

5. After hearing the petitioner, the aforesaid writ petition was disposed by an order dated 07.07.2021, with the following observations:-

"6. In view of the above, this Court directs the 2nd respondent to consider the petitioner's representation dated 08.02.2018, if not already considered, and pass appropriate orders, on merits and in accordance with law, after affording due opportunity of hearing to the petitioner as well as any other interested parties, within a period of eight (8) weeks from the date of receipt of a copy of this order.

7. Accordingly, this writ petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed."

6. Pursuant to the aforesaid order, the petitioner has sent representations which has now culminated in the impugned order passed by the Joint Commissioner, Hindu Religious and Charitable

Endowments Department, Cuddalore District, the second respondent herein. The impugned order dated 01.11.2021 is based on the report of the Inspector, Hindu Religious and Charitable Endowments Department, Cuddalore District, the fourth respondent herein.

7. According to the petitioner, the petitioner has been managing Arulmighu Sinthamani Vinayagar Thirukoil situated at Karamanikuppam Village, Cuddalore Taluk, Cuddalore District, which is outside the purview of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, and that the Government had granted a sum of Rs.1,00,000/- under the One-time Puja Scheme (Oru Kaala Pooja Scheme) which was deposited and the interest was utilized by the petitioner for conducting Puja.

8. The case of the petitioner is that the sixth respondent has close proximity with the fourth respondent and at the behest of the fourth respondent, the impugned order has been passed by the second respondent concluding that neither the petitioner nor the sixth respondent is conducting Puja and that one Santhosh was engaged and who was doing daily rituals in the Temple.

9. The learned counsel for the petitioner submits that the accounts may be transferred in the name of the Temple which was opened by the petitioner under the One-time Puja Scheme (Oru Kaala Pooja Scheme). It is further submitted that pursuant to the impugned order, the respondents have taken over the charge of the Temple after breaking the lock and that no daily rituals/Puja are performed by either the petitioner or the sixth respondent or the person named Santhosh, who is said to be doing Puja, as per the impugned order.

10. The learned counsel for the petitioner submits that the petitioner has no objection for the accounts to be maintained by any other person. The learned counsel further submitted that only the daily rituals/Puja have not been performed in the Temple for the last six months. Therefore, the petitioner is constrained to file the present writ petition.

11. Opposing the prayer, the learned Special Government Pleader for the first to fourth respondents would submit that the impugned order is well-reasoned and requires no interference as the order has been passed based on the report of the fourth respondent.

12. The learned Special Government Pleader further submits that the One-time Puja Scheme (Oru Kaala Pooja Scheme) is given only to the Temple which is under the purview of the Hindu Religious and Charitable Endowments Department and therefore it is not open for the petitioner to plead the Hindu Religious and

Charitable Endowments Department has no jurisdiction over the subject Temple under the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959.

13. That apart, it is submitted that there are several allegations against the petitioner and therefore the petitioner is not a fit person to manage the affairs of the Temple. It is further submitted that the petitioner was also arrested and released on bail and that day-to-day Puja was conducted by one Santhosh.

14. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Special Government Pleader for the first to fourth respondents.

15. There are several disputed questions of facts, which cannot be adjudicated in this writ petition. The petitioner has an alternative remedy under Section 21 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, before the Commissioner. However, the impugned order does not clearly spell out the fact that the daily rituals/Puja are carried out by anybody else, since the impugned order has been passed.

16. Considering the above, I am inclined to interfere by permitting the petitioner to file a statutory appeal before the commissioner in terms of Section 21 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, within a period of thirty days from the date of receipt of a copy of this order.

17. If such appeal is filed before the Commissioner under Section 21 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, the same shall be disposed as expeditiously as possible by the Commissioner. Considering the fact that the daily rituals/Puja are not being carried out and since the impugned order has been passed, I direct the respondents to allow the petitioner to perform the daily rituals in the Temple. However, the lock and key of the Temple shall be under the control of the Hindu Religious and Charitable Endowments Department.

18. The rights of the petitioner to manage the Temple independently will be subject to the final outcome of the statutory petition/application to be filed by the petitioner under Section 21 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. It is made clear that if the petitioner fails to file such application within a period of thirty days, this order will stand automatically vacated.

19. This Writ Petition stands disposed of with the above observations. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

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Hindu Religious and Charitable
Endowments Department,
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5. The Branch Manager,
Indian Overseas Bank,
Kumarapuram,
Cuddalore Taluk,
Cuddalore District.

+1cc to Mr.D.Baskar, Advocate, S.R.No.39788

+1cc to the State Government Pleader, Advocate Sr.No.46326

(21/07/2022)

W.P.No.15852 of 2022

GPL[co]
NSK/12/07/2022