



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 28.06.2022

Coram:

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THE HONOURABLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE
and
THE HONOURABLE MRS.JUSTICE N.MALA

W.P.Nos.15577 and 16101 of 2020
and
W.M.P.Nos.19647, 20064, 20066 and 20067 of 2020

Rangarajan Narasimhan .. Petitioner in W.P.No.15577
of 2020
C.R.Narasimmamoorthy .. Petitioner in W.P.No.16101
of 2020

Vs.

1. The Chief Secretary to Government,
Government of Tamil Nadu,
Secretariat, Chennai-600 009.
2. The State of Tamil Nadu,
Rep. by its Secretary,
Department of Tourism, Culture
and Religious Endowments,
Secretariat, Fort St.George,
Chennai-600 009.
3. The Commissioner,
Hindu Religious and Charitable Endowments Department,
119, Uthamar Gandhi Salai,
Nungambakkam, Chennai-600 034.
4. The Executive Officer,
Sri Kariyamanikka Perumal Temple,
Periyur.
5. The Executive Officer,
Perundurai Town Panchayat,
Erode.

.. Respondents in
W.P.No.15577 of 2020

1. The Chief Principal Secretary to Government,
Government of Tamil Nadu,
Tourism, Culture and Religious Endowments Department,
Fort St.George, Chennai-600 009.



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2. The Principal Secretary/Commissioner,
Hindu Religious and Charitable Endowments Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam, Chennai-600 034.
3. The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Coimbatore.
4. The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Erode District.
5. The Thakkar/Executive Officer,
Arulmighu Karia Perumal Thirukovil,
Thiruvachi Village,
Perunthurai Taluk,
Erode District.
6. The District Collector,
Erode District.
7. The Tahsildar,
Perunthurai Taluk,
Erode District.
8. The Tahsildar,
Modakurichi Taluk,
Erode District.
9. The Executive Officer,
Perunthurai Town Panchayat,
Perunthurai Taluk,
Erode District.
10. The District Registrar, Erode District.
11. The Sub-Registrar, Perunthurai, Erode District.

.. Respondents in W.P.No.16101 of 2020

Writ Petition No.15577 of 2020 (Public Interest Litigation) filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the records of the second respondent, quash G.O.(Ms).No.110, Department of Tourism, Culture and Endowments, dated 20.08.2020 and all proceedings in furtherance thereof and to quash them as arbitrary, unjust and illegal.



Writ Petition No.16101 of 2020 filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the first respondent in G.O.(Ms).No.110, dated 20.08.2020 and impugned proceedings of the second respondent in V.No.03/2020/M2, dated 26.08.2020, quash the same and consequently forbear the respondents 10 and 11 herein from registering any sale deed in respect of lands measuring 4.59 acres comprised in S.No.435/1 covered by Patta No.810, endowed in the name of main deity of Arulmigu Karia Perumal Thirukovil, Thiruvachi Village, Perunthurai Taluk, Erode District.

For petitioner
in W.P.No.15577 of 2020 : Mr.Rangarajan Narasimhan,
petitioner-in-person

For petitioner
in W.P.No.16101 of 2020 : Mr.K.Muthu Ganesa Pandian

For respondents
in W.P.No.15577 of 2020 : Mr.N.R.R.Arun Natarajan, Spl.G.P.
for RR-1 to 3

For respondents
in W.P.No.16101 of 2020 : Mr.N.R.R.Arun Natarajan, Spl.G.P.
for RR-1 to 4
No appearance for R-5

Mr.P.Muthukumar, State Govt. Pleader
assisted by Mr.K.M.D.Mugilan,
Govt. Advocate for RR-6 to 11

COMMON ORDER

(The Common Order of the Court was made by The Honourable Chief Justice)

These Writ Petitions are filed challenging G.O.(Ms).No.110, Department of Tourism and Culture and Endowments Department, dated 20.08.2020. The challenge has been made precisely on the ground that the aforesaid is not in accordance with the provisions of Section 34 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. For ready reference, Section 34 is quoted hereunder:

Section 34: Alienation of immovable trust
property: (1) Any exchange, sale or mortgage



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and any lease for a term exceeding five years of any immovable property, belonging to, or given or endowed for the purposes of, any religious institution shall be null and void unless it is sanctioned by the Commissioner as being necessary or beneficial to the institution:

Provided that before such sanction is accorded, the particulars relating to the proposed transaction shall be published in such manner as may be prescribed, inviting objections and suggestions with respect thereto; and all objections and suggestions received from the trustee or other persons having interest shall be duly considered by the Commissioner:

Provided further that the Commissioner shall not accord such sanction without the previous approval of the Government.

Explanation--Any lease of the property above-mentioned though for a term not exceeding five years shall, if it contains a provision for renewal for a further term (so as to exceed five years in the aggregate), whether subject to any condition or not, be deemed to be a lease for a period exceeding five years.

(2) When according such sanction, the Commissioner may impose such conditions and give such direction, as he may deem necessary regarding the utilisation of the amount raised by the transaction, the investment thereof and in the case of a mortgage, regarding the discharge of the same within a reasonable period.

(3) A copy of the order made by the Commissioner under this section shall be communicated to the Government and to the trustee and shall be published in such manner as may be prescribed.

(4) The trustee may, within three months from the date of his receipt of copy of the order, and any person having interest may, within three months from the date of the publication of the order, appeal to the Court



permission to the H.R. & C.E. Commissioner to sell the land and for it, reference to paragraph 6 of the G.O. under challenge is quoted hereunder:

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"6. After careful consideration of the view of the HRCE Commissioner, the Government is issuing an order permitting the HRCE Commissioner to sell 1 acre of land (Plot 435/1) belonging to the Kariya Perumal Temple in Thiruvachi Village, Perundurai Taluk, Erode District to the Perundurai Municipality for the purpose of construction of Percolation Tank for Rs.12,90,638/- under HRCE Act 22/1959 Section 34"

6. The permission aforesaid has been given by the Government prior to calling for objections/suggestions from the Trustees or any other person interested therein. The G.O. can be issued by the Government only when it is sent by the Commissioner after deciding the objections/suggestions. Accordingly, the aforesaid G.O., dated 20.08.2020 is set aside without affecting the exercise of calling for the objections, rather, they may proceed further from the stage of taking a decision on the objections/suggestions sent by the petitioner and others in accordance with the provisions of Section 34 of the Act of 1959. The Writ Petitions are disposed of with the aforesaid.

7. There shall be no order as to costs. Consequently, W.M.Ps. are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

CS
To

1. The Chief Secretary to Government,
Government of Tamil Nadu,
Secretariat, Chennai-600 009.
2. The State of Tamil Nadu,
Rep. by its Secretary,
Department of Tourism, Culture
and Religious Endowments,
Secretariat, Fort St.George,
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Perundurai Town Panchayat,
Erode.
6. The Chief Principal Secretary to Government,
Government of Tamil Nadu,
Tourism, Culture and Religious Endowments Department,
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11. The District Collector,
Erode District.
12. The Tahsildar,
Perunthurai Taluk,
Erode District.
13. The Tahsildar,
Modakurichi Taluk,
Erode District.



14. The Executive Officer,
Perunthurai Town Panchayat,
Perunthurai Taluk,
Erode District.

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15. The District Registrar, Erode District.

16. The Sub-Registrar, Perunthurai, Erode District.

+lcc to Mr.K.Muthu Ganesa Pandian, Advocate, S.R.No.40401

+lcc to the Government Pleader, S.R.No.40960

W.P.Nos.15577 and 16101 of 2020

AD(CO)
CT/07/07/2022