



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.No.24818 of 2021
and W.M.P.Nos.26101 & 26102 of 2021

Sri Malayamman Devasthanam,
Rep. By Mr.S.Loganatha Desigar,
the Managing-cum-Hereditary Poojari/Trustee,
Kodumudi,
Erode District 638 151.

.. Petitioner

Vs.

1. The Commissioner,
The Hindu Religious and Charitable Endowments Department,
119, Gandhi Salai,
Chennai 600 034.
 2. The Joint Commissioner,
The Hindu Religious and Charitable Endowments Department,
Erode District.
 3. The Superintending Archaeologist,
Archaeological Survey of India,
Chennai 600 009.
 4. The Inspector,
The Hindu Religious and Charitable Endowments Department,
Kodumudi, Erode District.
- .. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records on the file of the 4th respondent in connection with the order passed by him in his proceedings in Na.Ka.No.34/2021 dated 23.03.2021 and on the file of the 1st respondent in connection with the order passed by him in his proceedings in Na.Ka.No.31154/2010/M3 dated 15.09.2021 respectively and quash the same as being arbitrary, illegal and consequently, forbear the respondents from interfering with the administration of the properties by the petitioner to maintain the said temple namely, Sri Malayamman Devasthanam, Kodumudi, Erode District and doing poojas.



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For Petitioner : Mr.M.Muruganantham
for M/s.I.Saddam Hussain

For RR1, 2 & 4 : Mr.K.Karthikeyan
Government Advocate (HR & CE)

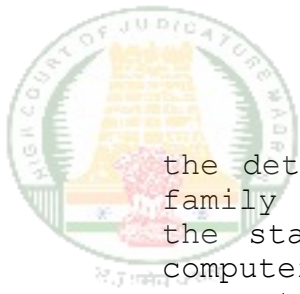
For R3 : Mr.S.Ravi Kumar
Special Government Pleader

O R D E R

(The matter is heard through "Video-conferencing/hybrid" mode)

This Writ Petition is filed to call for the records on the file of the 4th respondent in connection with the order passed by him in his proceedings in Na.Ka.No.34/2021 dated 23.03.2021 and on the file of the 1st respondent in connection with the order passed by him in his proceedings in Na.Ka.No.31154/2010/M3 dated 15.09.2021 respectively and quash the same as being arbitrary, illegal and consequently, forbear the respondents from interfering with the administration of the properties by the petitioner to maintain the said temple namely, Sri Malayamman Devasthanam, Kodumudi, Erode District and for doing poojas.

2.According to the petitioner, he is the Managing-cum-Hereditary Poojari/Trustee of Sri Malayamman Devasthanam. The said Devasthanam was handed over to the ancestors of the petitioner by Kumbini Sarkaar to do poojas and to enjoy the lands for maintenance of the temple and for Hereditary Trustees. The right of the ancestors of the petitioner to be in possession of property was recognized in the year 1896 in O.S.No.542 of 1896, permitting hereditary trustees to recover possession of building and shops. The said judgment was confirmed in A.S.No.7 of 1898. While so, on 31.10.1942, the 1st respondent, by the proceedings dated 31.10.1942, declared "Sri Malayamman Devasthanam, Kodumudi" as an 'Exempted Temple'. The learned counsel for the petitioner submitted that patta was issued in the name of the petitioner's ancestors for the fasli year 1345 and Title Deed was granted by the Governor in Council of Madras on 03.02.1871. From the year 1801, the ancestors of the petitioner were given right. While so, the 4th respondent, by the impugned order, directed the petitioner to stop renovation work and appear for enquiry on 09.04.2021. Further, the petitioner, by the impugned memo bearing Na.Ka.No.31154/2010/M3 dated 15.09.2021, was asked to upload the properties of the Hereditary Trustees enjoyed from 18th Century onwards in the computer, in the name of the temple. The petitioner was threatened to upload



the details of the properties by abusing the Trustees and their family members. To avoid any humiliation, the petitioner signed the statement of the properties and uploaded the same on the computer on 28.10.2021. The petitioner has come out with the present Writ Petition challenging both the notice in Na.Ka.No.34/2021 dated 23.03.2021 and memo in Na.Ka.No.31154/2010/M3 dated 15.09.2021.

3.Heard the learned counsel appearing for the petitioner, learned Government Advocate (HR & CE) appearing for the respondents 1, 2 and 4 as well as the learned Special Government Pleader appearing for the 3rd respondent and perused the entire materials available on record.

4.From the materials on record, it is seen that according to the petitioner, he appeared for enquiry on 09.04.2021 before the 4th respondent and submitted explanation and other documents claiming that the temple belongs to Hereditary Trustees and the temple is an exempted temple. The petitioner contended that so far, the 4th respondent has not passed any order on the explanation submitted by the petitioner, but is preventing the petitioner to proceed with the renovation work and in view of the same, the petitioner is seeking to quash the impugned notice issued by the 4th respondent. In as much as the petitioner appeared for the enquiry before the 4th respondent on 09.04.2021 as per the notice dated 23.03.2021 and submitted his explanation and the documents relied on, it is suffice to direct the 4th respondent to pass orders on the explanation submitted by the petitioner on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order. Further, according to the petitioner, without passing any order for more than nine months, the 4th respondent prevented the petitioner from proceeding with the renovation work. In view of the fact that the 4th respondent has not passed any order for more than nine months, the 4th respondent is restrained from interfering with the renovation work carried on by the petitioner.

5.As far as the memo in Na.Ka.No.31154/2010/M3 dated 15.09.2021 is concerned, according to the petitioner, he has uploaded the details of the properties in the computer in the name of temple on 28.10.2021 due to threat and abuse of 2nd respondent. As the petitioner has complied with the memo, the said memo cannot be quashed in the present Writ Petition. If the 2nd respondent takes any action based on the uploaded particulars of properties, it is open to the petitioner to challenge the same, as per law, before competent authority.



With the above direction, the Writ Petition is disposed of.
No costs. Consequently, connected Miscellaneous Petitions are closed.

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Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

gsa

To

1. The Commissioner,
The Hindu Religious and Charitable Endowments Department,
119, Gandhi Salai,
Chennai 600 034.
2. The Joint Commissioner,
The Hindu Religious and Charitable Endowments Department,
Erode District.
3. The Superintending Archaeologist,
Archaeological Survey of India,
Chennai 600 009.
4. The Inspector,
The Hindu Religious and Charitable Endowments Department,
Kodumudi, Erode District.

+1cc to Mr.I.Saddam Hussain, Advocate SR. No.12103

+1cc to Special Government Pleader (HR & CE) SR. No.12136

W.P.No.24818 of 2021

GJ (CO)

PR (09/03/2022)