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W.P.No.25298 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2022

CORAM

THE HON'BLE **MR.JUSTICE C.SARAVANAN**

W.P.No.25298 of 2021

and

W.M.P.No.26697 of 2021

Arulmigu Pattabiramasamy Thirukoil,
Rep. by its Hereditary Trustee D.Bhaskaran

... Petitioner

Vs.

1. The Joint Commissioner,
HR & CE Department,
Cuddalore.
2. The Assistant Commissioner,
HR & CE Department,
Cuddalore.
3. The Inspector
HR & CE Department,
Bhuvanagiri,
Office of Arulmigu Muthukumarasamy Koil,
Parangipet,
Cuddalore District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorarified Mandamus to call for the records of the third respondent made in Na.Ka.No.70/2021 dated 27.08.2021 and quash the



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same and consequently direct the Respondents 1 to 3 from in any manner interfering with the affairs and management of the Petitioner temple.

For Petitioner : Mr.V.Balamurugane

For Respondents : Mr.S.Yashwanth
Additional Government Pleader

ORDER

The petitioner has challenged the impugned communication dated 27.08.2021 bearing reference Na.Ka.No.70 of 2021. By the Impugned Communication dated 27.08.2021, the third respondent, Inspector of HR & CE, Department, Parangipet, Cuddalore District has called upon the petitioner to not to proceed further with any renovation or construction work of the temple.

2. After the writ petition was filed on 23.11.2021, the petitioner has filed an undertaking that the petitioner has not carried out any form of alterations/modifications to the structure of the temple till date and that the petitioner has been only conducting daily routine maintenance of upkeep of the temple. Paragraph 3 of the said undertaking affidavit reads as under:



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3. I state that I have not carried out any form of alterations/modifications to the structure of the Petitioner temple till date and have only been conducting the routine daily affairs of the temple and performing regular maintenance for the upkeep of the petition temple. I undertake not to carry out any renovation work that will result in alterations/modifications to the structure of the petitioner temple without receiving prior approval from the concerned authorities.

I therefore humbly pray that this Hon'ble Court may be pleased to record this undertaking and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of this case and thus render justice.

3. This was also recorded by this Court in its order dated 29.11.2022.

4. The specific case of the petitioner appears to be that the temple in question is a private temple and that the HR & CE Department has no jurisdiction to interfere with their day to day maintenance and affairs of the temple.

5. The petitioner has traced out the history stating that the temple in question was managed and maintained by V.R.Devarajulu Naidu who is the father of the petitioner and that the forefathers of the said V.R.Devarajulu Naidu were managing the temple from time in memorial.



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6. It is submitted that the Trustee D.Bhaskaran's father expired during the year 1988 and thereafter his elder son D.Bhaskaran has been managing the temple and its affairs.

7. It is submitted that the temple property has not been notified as a temple coming under the jurisdiction of HR & CE Department.

8. Opposing the prayer, the learned Additional Government Pleader for the respondents submits that the writ petition is without any merits.

9. It is submitted that the temple in question comes within the purview of the HR & CE Department. In this connection, a reference was made to the list of temples which are eligible for maintenance by the office of the second respondent and that Sl.No.39, the petitioner temple is shown as the only temple within the purview of the HR & CE Department.

10. It is further submitted that even if it is a case of the petitioner that the private temple does not come within the purview of the HR & CE, Department, it is open for the petitioner to approach this Court to challenge



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the impugned notice as it merely calls upon the petitioner for not to proceed further with the construction in the temple as it falls within the purview of the HR & CE Department.

11. It is submitted that the petitioner wants to establish rights over the temple, it is open for the petitioner to approach the Civil Court for a declaration.

12. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents. I have also perused the affidavit filed in support of the present writ petition and the impugned communication dated 27.08.2021.

13. The petitioner has also replied to the same on 03.09.2021. The Impugned Communication does not determine the rights of the petitioner in one way or the other does not brought up to the finality of the issue. If it is the case of the petitioner that the subject temple is a private temple, then remedy of the temple lies elsewhere.



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WEB COPY 14. On the other hand, if it is a case of the petitioner that the petitioner is a hereditary trustee and therefore entitled to manage the affairs of the temple, it is for the petitioner to file appropriate application before the Joint Commissioner, HR & CE Department, Cuddalore under Section 63 of the HR & CE Act, 1959.

15. In view of the above discussion, I am of the view, there is no merits in the present writ petition.

16. The writ petition stands dismissed in terms of the above observations with liberty to the petitioner to work out his remedy in a manner known to law. No costs. Consequently, connected miscellaneous petitioner is closed.

04.07.2022

Index : Yes/No
Internet : Yes/No
Speaking/Non-speaking Order
rgm



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C.SARAVANAN, J.

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