



WEB COPY



W.P.No.28144 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2022

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

W.P.No.28144 of 2021

and

W.M.P.Nos.29746 and 29747 of 2021

K.Shanmugavel Mudaliar

... Petitioner

Vs.

1. The Commissioner,
HR & CE, (A) Administration Department,
Nungambakkam,
Chennai – 600 034.

2. The Joint Commissioner,
HR & CE, (A) Administration Department,
Kanchipuram,
Kanchipuram District – 631 501.

3. The Executive Officer,
Arulmigu Ranganatha Perumal Temple,
Thiruneermalai,
Chennai – 44.

4. The Inspector of Police,
S6 Sankar Nagar,
Pammal,
Chennai – 75.

... Respondents



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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 second respondent relating to the order dated 22.06.2021 in Na.Ka.No.2445/2021/A1 and to quash the same and to consequently forbear the respondents 1 to 3 from in any manner acting upon the (1) order of the first respondent dated 28/02/1991 in Pro.R.Dis.9025/91 and (2) order of the first respondent dated 23.12.1991 in Se.Mu.Na.Ka.95017/91/L which are no longer in force.

For Petitioner : Mr.T.Sai Krishnan

For Respondents :

For R1 to R3 : Mr.N.R.R.Arun Natarajan
Special Government Pleader

For R4 : Mr.B.Tamilnidhi
Additional Government Pleader

ORDER

The petitioner has challenged the impugned communication/order of the second respondent dated 22.06.2021 bearing reference Na.Ka.No.2445/2021/A1 appointing the third respondent as “Executive Officer” under Section 45(1) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959.



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2. The Impugned Order dated 22.06.2021 merely refers to two orders passed by the Assistant Commissioner and the Commissioner on 28.02.1991 and on 23.12.1991.

3. It is noticed that there are multiple proceedings that were pending before different forums as on date. The Impugned Order had not given any reason for appointing the third respondent under Section 45(1) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959.

4. In the counter, reference is made to several litigations pending before the various Courts. It is noticed that the petitioner has also filed a suit in O.S.No.118 of 2009 for the following relief:

- i. Declaration that the plaintiffs temples situated in Residential place GramaNatham (Village Site) in Survey No.210/2 private land properties is not coming under the purview of the HR & CE Act.
- ii. For permanent injunction restraining the third defendant and their subordinates, or any one claiming through or under them either from conducting any enquiry initiate by the third defendant against the plaintiff unless and until the character of institution is decided, the defendants cannot to exercise Jurisdiction provision of H.R.&C.E. Act.
- iii. For permanent injunction restraining the defendants or their men or agents or



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servants/subordinates or any other persons from in any way interfering with the management & Administration of Arulmigu Agastheeswarar Temple and allied Temples of the Plaintiff as Managing Hereditary Trustee.

- iv. For permanent injunction restraining the defendants or their men or agents or servants/subordinates or any other persons from in any way interfering in any way restricting or controlling the plaintiff in dealing his GramaNatham properties and personal properties as Hereditary Trustee.
- v. For cost and For such other relief/s as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.
- vi. "for a declaration declaring G.O.(Nilai).No.371 of 07.11.2008 passed (Religious Endowment 3.1) Department by the first defendant under Section 114 of the HR & CE Act as null & void, not binding on the plaintiff and Grama Natham property never vested with the Government (As per High Court Madras order in CRP.No.1988 of 2020 dated on 08.02.2021).

5. In the said suit, the petitioner has also obtained an interim order from the Civil Court in I.A.No.334 to 336 of 2009. Though the aforesaid order was put to jeopardy by the respondent temple in C.R.P.No.1123 of 2014 and allowed by this Court along with Crl.O.P.No.8674 of 2017 filed by the petitioner. The order of this Court passed in C.R.P.No.1123 of 2014 was however set-aside by the Hon'ble Supreme Court by its order dated 09.08.2019 and the case has been remitted back to the Trial Court.



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6. Thus, the interim order which was granted by the Trial Court on 02.03.2009 stood revived. Considering the above, I do not find any reasons to sustain the Impugned Order. Accordingly, the Impugned Order stands quashed. However, liberty is given to the respondents to initiate after issuing a proper Show Cause Notice to show cause to the petitioner as to why the administration should not be taken from the petitioner and why an Executive Officer should not be appointed under Section 45(1) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 in case there are alienations of any properties by the petitioner during interregnum.

7. The writ petition stands allowed with the above observations. No costs. Consequently, connected miscellaneous petitions are closed.

07.07.2022

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

rgm



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C.SARAVANAN, J.

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