



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.02.2022

CORAM

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P (MD).No.3565 of 2022
and
WMP.(MD).No. 3117 of 2022

R.Krishanmoorthy

... Petitioner

Vs.

1.The Joint Commissioner of HR & CE,
Trichy District
Trichy.

2.The Executive Officer,
Sorna Bairavar Temple,
Gandhi Market,
Trichy.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 1st respondent to pass final orders in O.A.No.07 of 2020 filed by the petitioner after affording personal hearing within the period that may be stipulated by this Court and consequently direct the 2nd respondent not to interfere the administration of Arul Mighu Velikand Nathar temple till the final disposal of O.A.No. 07 of 2020 pending on the file of the 1st respondent.

For Petitioner

: Mr.M.Jerin Mathew.

For R1

: Mr.P.Subbaraj

Special Government Pleader

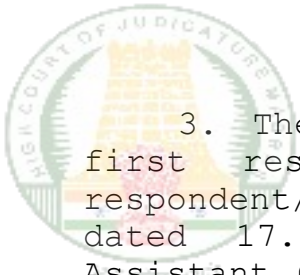
For R2

: Mr. Gunaseelarupan

ORDER

This writ petition has been filed for a writ of Mandamus to direct the first respondent to pass final order in O.A.No.7 of 2020, filed by the petitioner after affording an opportunity of hearing to the petitioner.

2. It is the specific case of the petitioner that the second respondent disturbed the affairs of the temple claiming to be an Executive Officer, though the petitioner has not been served with any notice.



3. The learned counsel for the official respondent, namely, first respondent and the learned counsel for the second respondent/Executive Officer submit that a copy of communication, dated 17.02.2022, bearing reference ந.க.எண் .402/2022/m5 of the Assistant Commissioner has been filed, wherein, reference has made to the order, dated 09.09.1998, passed by the Commissioner under Section 45(1) of The Hindu Religious and Charitable Endowments Act, 1959, appointing the second respondent as an Executive Officer of the temple. The show cause notice issued by the Assistant Commissioner called upon the second respondent as to why action has not to be taken for not taking control of the temple in terms of the order, dated 09.09.1998, bearing reference செ.மு.ந.க.எண் .27825/98

4. The facts of the case indicated that the petitioner voluntarily filed an application under Section 63 (b) of the Hindu Religious and Charitable Endowment Act, 1959 before the Joint Commissioner in O.A.No.7 of 2020. The prayer in the said O.A. is to declare the petitioner as a hereditary trustee. The fact that the petitioner has himself approached the Joint Commissioner indicates that there is some cloud over the rights of the petitioner to continue to manage the affairs of the temple.

5. Considering the above, I direct the petitioner to hand over the control of the temple to the second respondent. It is therefore ordered as follows:

(1) The petitioner is directed to hand over the control of the temple to the second respondent;

(2) The second respondent is directed to participate in the proceedings initiated by the Assistant Commissioner, vide show cause notice, dated 07.02.2022, bearing Na.Ka.Na.402/2022A5;

(3) The first respondent/Joint Commissioner is directed to dispose of the application filed under Section 63 (b) of the Hindu Religious and Charitable Endowment Act, 1959 within a period of 45 days from the date of receipt of copy of this order. The rights of the petitioner to manage the affairs of the temple shall be subjected to the final outcome of the respective proceedings.

6. The respondents are directed to serve the copy of the communication referred to in the show cause notice, dated, 09.09.1998.



7. The Writ Petition stands disposed of with the above observations. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Joint Commissioner of HR & CE,
Trichy District
Trichy.

2.The Executive Officer,
Sorna Bairavar Temple,
Gandhi Market,
Trichy.

+1 CC to M/s.C.GUHASEELARUPAN, Advocate (SR-8404[F] dated 24/02/2022)

+1 CC to M/s.SPL GP (SR-8681[F] dated 25/02/2022)

+1 CC to M/s.M.JERIN MATHEW, Advocate (SR-9102[F] dated 28/02/2022)

W.P (MD) .No.3565 of 2022
24.02.2022

SAR(CO)
KB(15.03.2022) 3P 6C