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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.11.2022

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P(MD).No.10275 of 2022
and
W.M.P(MD).Nos.7315 and 7316 of 2022

N.Sorimuthu Pillai ... Petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Chennai.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Thoothukudi.

3.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Tenkasi.

4.The Executive Officer/Fit Person,
Arulmigu Vilwavananatha Swamy Temple,
Kadayam,
Tenkasi Taluk,
Tenaksi District. ...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records of the impugned proceedings of the 1st Respondent in Ni.Mu.No.1568/2021/E2,

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dated 10.06.2021 and in Se.Mu.Na.Ka.No.987/2021/A3, dated 28.02.2022 and consequential impugned proceedings of the 4th Respondent dated 04.05.2022 and quash the same as illegal.

For Petitioner : Mr.R.J.Karthick
For R1 to R3 : Mr.J.Ashok
Additional Government pleader
For R4 : Mr.S.Chella Pandian

ORDER

This writ petition is filed for a writ of Certiorari challenging the following:

(a) The impugned proceedings, dated 10.06.2021, wherein, taking into account the interest of the temple and its administration and on the basis of the recommendation of the Assistant Commissioner, Hindu Religious and Charitable Endowments Department, Tirunelveli, the temple was brought under the control and management of the Hindu Religious and Charitable Endowments Department. As a consequence, until the appointment of the committee of trustees, requisite direction was issued to the Assistant Commissioner for the appointment of Thakkar as an interim arrangement.

(b) The impugned order, dated 28.02.2022, wherein, Executive Officer of Arulmighu Visvanathaswamy Thirukovil, Tenaksi District was appointed as Thakkar.

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(c) Consequent thereto, the Administrative Officer Arulmighu Visvanathaswamy Thirukovil, Tenaksi District vide proceedings, dated 04.05.2022 directing the Petitioner to hand over the documents, silver articles/jewelry within three days from the date of the above communication, failing which the action would taken in accordance with law.

2. It is submitted that appeal has already preferred by the Petitioner as early as on 07.04.2022 before the 2nd Respondent. However, the said appeal has been returned pointing out certain defects. The Petitioner has thus preferred this writ petition challenging the impugned proceedings and the consequential proceedings.

3. The learned counsel for the Petitioner would seek liberty of this Court to re-submit or re-present the appeal papers and also to prefer to file stay petition. It is submitted that Respondents proposed to bring the temple properties to auction and they may restrain from proceeding further until the stay application stands decided in accordance with law.

4. The writ petition cannot be entertained in view of the fact that the Hon'ble

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Supreme Court and other Courts including this Court has consistently held that once the Petitioner chooses to prefer the statutory remedy, it may not be open for the Petitioner to challenge the very same proceedings in writ petition. In the circumstances, the Petitioner may re-submit or re-present the appeal papers after correcting/rectifying the defects within a period of two weeks from the date of receipt of copy of this order. On receipt of the same, the appellate authority shall number the same and also hear the stay application, if filed in accordance with law and pass order within a period of two weeks thereafter after providing an opportunity of hearing to the Petitioner and other stake holders/interested parties, if any. The Respondents are directed to maintain *status quo* until the stay application stands decided in accordance with law. If however, the defects pointed out in the appeal papers are not corrected/rectified within two weeks from the date of receipt of copy of this order, it is open for the Petitioner to proceed in accordance with law.

5. With the above direction, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

23.11.2022

Index : Yes / No
Internet : Yes/ No
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MOHAMMED SHAFFIQ, J.

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