



W.P.(MD)No.14491 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.07.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P.(MD)No.14491 of 2022

and

W.M.P.(MD)Nos.10364 and 10365 of 2022

Jakkampatty Saliyar Mahajana Sangam,
Represented by its President, S.Ramaraj,
S/o.Subramaniam,
No.11/3, Mariamman Kovil Extension,
Ward No.14, Jakkampatty,
Aundipatty Taluk,
Theni District.

... Petitioner

Vs.

1. The Commissioner,
Hindu Religious and Charitable
Endowments (Admn) Department,
Nungambakkam High Road,
Chennai - 600 034.
2. The Joint Commissioner,
Hindu Religious and Charitable
Endowments (Admn) Department,
Dindigul.



W.P.(MD)No.14491 of 2022

3. The Assistant Commissioner,
Hindu Religious and Charitable
Endowments (Admn) Department,
No.28/29, Pandian Nagar,
Dindigul - 1.

4. The Fit Person,
Arulmigu Dharmasastha Temple,
Thimmarasanayakkanur /
Arulmigu Muthumariamman Temple,
Jakkampatty, Aundipatty Taluk,
Theni District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records pertaining to the impugned proceedings of the fourth respondent dated 24.06.2022 and quash the same.

For Petitioner : Mrs.J.Anandhavalli

For Respondents : Mr.M.Lingadurai
Spl. Govt. Pleader for R1 to R3
Mr.V.Chandrasekar
Senior Counsel for R4

ORDER

The petitioner / president of Jakkampatty Saliyar Mahajana Sangam has filed this Writ Petition to quash the proceedings of the fourth respondent, dated 24.06.2022, wherein the fourth respondent directed the



W.P.(MD)No.14491 of 2022

petitioner Sangam to hand over the possession, namely, Kulippu Kinaru, Karaga Mandapam, Karumanthira Mandapam and Saliyar Makkal Mandram, on or before 11.07.2022 at about 11.00 a.m.

2. The contention of the petitioner is that the petitioner Sangam called 'Saliyar Mahajana Sangam' formed 80 years ago and all the residents of Jakkampatty belong to Saliyar Community are members in the said Sangam. The income and expenditure in respect of 'Arulmigu Muthumariamman Temple, Jakkampatty, maintained by the petitioner Sangam. In the year 2012, it was decided to form a committee insofar as the affairs of the Temple is concerned, a resolution was passed in the year 2012 to the effect, by which, a trust called Sri Muthumariamman Temple Thiruppanigal and Paramarippu Arakkattalai was formed to take effective care of all the festivals, maintenance and the Management of the Temple.

3. The Trust was got registered with Registration Number 19/2013. The Sangam was also got registered under the Tamil Nadu



W.P.(MD)No.14491 of 2022

Societies Registration Act and the Registration Number is 41/2016. There are around 4810 members in the Sangam, who are all Saliyar Community People, residents of Jakkampatty, Andipatty Taluk. One among the Saliyar Community people is appointed as Poojari of the Temple and the same is in practice till date, the administration and management of the Temple vest with the Saliyar Community people of Jakkampatty, Theni District. The main Deity 'Arulmigu Muthumariamman', 'Sri Vinayagar', 'Sri Murugan', 'Sri Sivalingam' etc., are consecrated within the premises. Daily poojas and special poojas are performed at the expenses of the Sangam originally and now by the Trust.

4. It seems that some of the villagers have given a complaint before the third respondent herein, thereby, the third respondent called for a report from the Inspector of HR&CE. The third respondent seems to have sent a report to the first respondent herein. The first respondent by proceedings in Ni.Mu.No.46998/2013/C5, dated 19.11.2013, brought 'Arulmigu Muthumariamman Temple' under the control of the HR&CE



W.P.(MD)No.14491 of 2022

Department. In pursuance of the first respondent's proceedings, dated 19.11.2013, the third respondent herein passed order appointing the fourth respondent herein as Fit Person of the Temple in proceedings in Se.Mu.Na.Ka.No.1390/2013/A2, dated 30.12.2013, against the principles of natural justice.

5. On coming to know about the appointment of Fit Person, the former President of the petitioner Sangam filed W.P.(MD)No.2499 of 2014 and the same was dismissed on the ground that it is an appealable one. After the dismissal of the said Writ Petition, the petitioner Sangam filed W.P.(MD)No.9030 of 2015 for issuance of Mandamus, prohibiting the respondents herein from taking possession and management of the Temple, without following due process of law and the same was closed, this order passed in a Public Interest Litigation filed by one Raja. The said two writs prosecuted along with other three writs filed by one S.M.Raja and a Crl.R.C. (MD)No.681 of 2017 filed by the fourth respondent herein and a common order was passed on 24.08.2017.



W.P.(MD)No.14491 of 2022

WEB COPY

6. Following the same, yet another Writ Petition was filed by S.M.Raja in W.P.(MD)No.3836 of 2019. Finally, *Suo Motu* Contempt Petition in Cont.P.(MD)No.537 of 2019, order was passed on 12.03.2021. During the pendency of the contempt proceedings, a Senior member of the Bar was also appointed as Counsellor. Thereafter keys of the Temple directed to be handed over on or before 01.04.2021 to the HR&CE officials. In the meanwhile, the Sangam filed a petition under Section 64(1) of the Tamil Nadu Hindu Religious and Charitable Endowments Act 22 of 1959 for framing a scheme for proper and better administration and management of Arulmigu Muthumariamman Temple at Jakkampatty Village, Andipatty Taluk, Theni District with due regard to the Saliyar Community People of Jakkampatty Village in O.A.No.1 of 2020, before the Joint Commissioner of Hindu Religious and Charitable Endowments Department, Madurai.

7. Following the order of this Court in *Suo Motu* Contempt, charges handed over including gold, silver, brass articles and vessels to the Temple. The fourth respondent received the same on 05.04.2021. Thereafter,



W.P.(MD)No.14491 of 2022

WEB COPY

a notice issued on 18.05.2022, calling for Sangam to hand over Kulippu Kinaru, Karaga Mandapam, Karumanthira Mandapam and Saliyar Makkal Mandram within a period of seven days from the date of receipt of the notice. The petitioner Sangam sent reply on 23.05.2022, objecting the notice and stating that the properties mentioned in the notice does not belong to the Temple, all properties belong to Saliyar Community People. Without considering the objections raised by the petitioner, the impugned notice has been issued directing that all properties would be taken over on or before 11.07.2022 at about 11.00 a.m in presence of Revenue and Police Officials.

8. The primary contention of the petitioner is that the Temple was constructed by Saliyar Community People and it is in existence for 80 years. Originally, the Temple was established in or about 1925 by one Ganapathy Swamigal, belonging to the Saliyar Community. Thereafter, in the year 1935, one Karuppasamy Mooppanar of Saliyar Community constructed a small building after removing mud wall and thatched roof with the help and support of Saliyar Community people residing in Jakkampatty and declared



W.P.(MD)No.14491 of 2022

WEB COPY

it Saliyar Community Temple. One Raja, raised objections, with regard to conduct of Temple festivals, excluding other community people. The said Raja filed impleading petition before the Joint Commissioner of Hindu Religious and Charitable Endowments Department, in the scheme petition filed by Saliyar Community which was allowed, against which, the petitioner filed Revision before the Commissioner of Hindu Religious and Charitable Endowments Department and obtained an order of interim stay.

9. The said Raja filed Writ Petition in W.P.(MD)No.8183 of 2022 and this Court set aside the order of stay granted by the Commissioner of Hindu Religious and Charitable Endowments Department and directed the Joint Commissioner to complete the enquiry and dispose of R.P.No.24 of 2022 within a period of four weeks. Against the order of the learned Single Judge, the Writ Appeal is filed.

10. Be that as it may, the primary contention of the petitioner is that the Fit Person has been appointed for the purpose of managing the



W.P.(MD)No.14491 of 2022

Temple and its property and not for everything. Further, the petitioner handed over the Temple properties as early as on 05.04.2021 with proper acknowledgment. Thereafter, after one year, the present notice issued, for which, the petitioner sent objection and the same was not considered, the impugned notice issued to take possession of Kulippu Kinaru, Karaga Mandapam, Karumanthira Mandapam and Saliyar Makkal Mandram by the Revenue and Police Officials.

11. The learned counsel for the petitioner submitted that the certificate of the Commissioner has not been obtained as contemplated under Section 101 of the Hindu Religious and Charitable Endowments Act. In that event, this Court direct the petitioner to approach the Commissioner under Section 21 of the Act challenging the impugned order, some breathing time may be given, so that the Fit Person does not proceed further with the impugned notice.



W.P.(MD)No.14491 of 2022

WEB COPY

12. Further, the learned counsel for the petitioner relied on the decision in ***Kuntanukkala Satyanarayana vs. Sri Ramalingeswaraswamy Temple*** reported in ***1964 SCC OnLine AP 253 :(1964) 2 An WR 256*** wherein the procedure to be followed under Section 101 of the Act is elaborated.

13. The learned counsel for the fourth respondent submits that the petitioner or his clan showing residence in all forms right from initial period. Whenever any notice or proceedings initiated, they are in the habit of filing petitions. Finally, this Court in *Suo Motu Contempt Petition (MD) No. 537 of 2019*, passed an order on 12.03.2021, due to which, on 05.04.2021, charges handed over to the Fit Person. On verification, it was found that there is no proper register for the Temple properties. Only by enquiry, information collected and thereafter it was found that the property mentioned in the impugned notice were left out, not handed over and hence notice issued. He further submitted that the property situated is also within the precinct of the Temple and the petitioner Sangam cannot claim that it is



W.P.(MD)No.14491 of 2022

the exclusive property of the Sangam. Further, the Sangam as well as Sri Muthumariamman Temple Thiruppanigal and Paramarippu Arakkattalai are one and the same, they used the name interchangeably according to their convenience.

14. The petitioner questioning the authority of the Fit Person, in initiating steps to take over the Temple properties. The Fit Person of Hindu Religious and Charitable Endowments Department authorities are facing contempt proceedings initiated by one Raja for not taking over all properties of Temple. The petitioner to approach the Commissioner, if he is an aggrieved on the impugned notice, files a petition under Section 21 of the Act, not to rush to this Court by way of writ, when alternative remedy is available. The Apex Court and this Court time and again reiterated that it is appropriate to approach the concerned forum and not to writ court.

15. The learned Special Government Pleader appearing for the respondents 1 to 3 submitted that the Commissioner, on the complaint



W.P.(MD)No.14491 of 2022

WEB COPY

received from the public and various other persons in the manner in which the Temple is administered, not allowing other community people to participate in the festival, despite it is a public Temple. The Temple has been constructed from the contribution made by other communities residing in the same village. There was six Hundials and contributions received from the public.

16. Further, the petitioner Sangam is not acquired any land and thereafter constructed any Mandapams, performing any Mandagapadi. Further the appointment of Fit Person is only for proper administration of the Temple. If petitioner Sangam has any right as per customs and usage, they may approach the authorities for obtaining orders in this regard. Since the petitioner has got alternative remedy to approach the Commissioner under Section 21 of the Act, they have to file appropriate petition. Further, *Suo Motu* Contempt Petition (MD) No.537 of 2019 dated 12.03.2021 was challenged before the Hon'ble Apex Court in S.L.P.No.10590 of 2019 and the same was withdrawn on 03.05.2019, finding the tide was against them.



W.P.(MD)No.14491 of 2022

WEB COPY

17. I have heard the submissions made by the learned counsel for the parties and perused the materials placed before this Court.

18. It is seen that the primary grievance of the petitioner is that the certificate from the Commissioner for the properties has not been obtained. Further, the notice dated 18.05.2022, the objection and reply dated 23.05.2022 have not been considered and referred in the impugned order of the fourth respondent, dated 24.06.2022. This notice has no sanction of law.

19. Considering the submissions and on perusal of the tax receipts, planning permission, municipal building permission which are annexed in the typed set of papers, it disclose the name of President of Saliyar Mahajana Sangam. The property is found within the place of Muthumariamman Temple extension area confirming the property which is within the precinct of the Temple. Further for the contention that the Commissioner's certificate not obtained is on a wrong premise, no proceedings are contemplated or filed before any Magistrate. For issuance



W.P.(MD)No.14491 of 2022

of impugned notice, no such pre-condition required. The issuance of impugned notice is perfectly in order. If the petitioner is aggrieved by the impugned notice, the petitioner has to approach the Commissioner of Hindu Religious and Charitable Endowments Department like a petition under Section 21 of the Act. Rushing to this Court without approaching the concerned authorities and without proper reason by way of writ is not appropriate. Hence, this Writ Petition is devoid of merits and is liable to be dismissed.

20. In the result, this Writ Petition stands dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

08.07.2022

Index : Yes / No

Speaking Order : Yes / No

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W.P.(MD)No.14491 of 2022

WEB COPY

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W.P.(MD)No.14491 of 2022

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