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W.P(MD).No.18389 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.08.2022

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P(MD).No.18389 of 2022

and

W.M.P.(MD).Nos.13391 and 13392 of 2022

ArulmighuKottai Mari AmmanThirukovil,
Dindigul,
Through its Managing Trustee,
CMPS.VP.Subhasini

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Dindigul.

2.The Tahsildhar,
Dindigul West Taluk,
Dindigul.

3.The Inspector of Police,
Dindigul South Police Station,
Dindigul.

4.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Dindigul.

5.M.Ramesh



W.P(MD).No.18389 of 2022

6. The Commissioner,
Hindu Religious and Charitable Endowments Department,
Nungambakkam High Road,
Chennai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings of the second respondent in Na.Ka.No. 2485/2022/A5 dated 3.8.2022 and quash the same and consequently direct the respondents to not to interfere with the administration of the temple viz Arulmigu Kottai Mariamman Thirukoil, Dindigul Town, Dindigul in the matter of Poosariship in the temple.

For Petitioner : Mr.VR.Shanmuganathan

For R-1 to R-4
and R-6 : Mr.M.Lingadurai,
Special Government Pleader.

For R-5 : Mr.R.G.Shankar Ganesh

ORDER

The petitioner managing trustee of Arulmigu Kottaimariamman, Dindigul challenging the order passed by the second respondent in Na.Ka.No. 2485/2022/A5 dated 03.08.2022 filed this Writ Petition.



2. The contention of the petitioner is that the petitioner is the managing hereditary trustee of the temple namely Arulmighu Kottai Mariamman Thirukovil. The temple is more than 300 years old. There have been hereditary trustee subject to the provisions of the Hindu Religious and Charitable Endowment Department. There was a dispute among the poojaris within the temple. Hence, they filed a civil suit in O.S.No.478 of 1998 before the Additional District Munsif, Dindigul. In the civil suit by judgment dated 03.11.2016 they obtained favourable order declaring poojariship, against which the trustees filed a Appeal Suit in A.S.No.18 of 2017 in which they have filed I.A.No.28 of 2017. The order passed in I.A.No.28 of 2017 dated 04.08.2017 and the judgment and decree passed in O.S.No.478 of 1998 dated 03.11.2016, were stayed till the disposal of the appeal. After sometime, the appeal was dismissed for non prosecution and later, the objection has been filed to set aside the order and thereafter now the appeal has been restored. The appeal is at final stage which was posted for judgment on 16.08.2022. In the meanwhile, the fifth respondent gave a representation to the Joint Commissioner, Hindu Religious and Charitable Endowment Department who have taken the same in A.P.No.2 of 2022 declaring the right of the fifth respondent, and restraining hereditary trustee, not to interfere with the



W.P(MD).No.18389 of 2022

poosariship. The Joint Commissioner had passed an order on 29.03.2022, on that day, the hereditary trustees were not represented and it was an ex parte order. Aggrieved against the same, the petitioner has filed an appeal before the Commissioner which is yet to be numbered. Thereafter, petitioner had filed Writ Petition in W.P.(MD).No.7254 of 2022 before this Court and this Court vide order dated 19.04.2022, while disposing the Writ Petition directed the fifth respondent that the orders of the Joint Commissioner to be kept in abeyance for a period of forty five days, giving time for the petitioner to file an appeal before the Commissioner and to obtain an order of stay of the Joint Commissioner. Thereafter, the petitioner filed the appeal before the Joint Commissioner, which is yet to be numbered and no stay order obtained. When the fifth respondent entered the temple, the petitioner restrained the fifth respondent to conduct poojas. Hence there was a commotion. Hence, on hearing the disturbance and likelihood of law and order, the Inspector of Dindigul South Police Station referred the case to the second respondent. The second respondent conducted a peace committee meeting. The petitioner approached, filed their written statement, wherein, he had stated about the pendency of civil suit and reminded the Tahsildar, the order in favour of the hereditary trustees against the fifth respondent. Despite the same, the second respondent had given recommendation to the first respondent favouring the



fifth respondent and to pass appropriate orders. According to the petitioner, as per Hindu Religious and Charitable Endowments Act, it is the temple authorities namely Deputy/Joint Commissioner or the Commissioner to pass appropriate orders with regard to trusteeship, poojariship, rights and privileges. It cannot be assumed by the revenue authorities. The role of revenue authorities is limited to the extent of maintaining peace and harmony, nothing more. The order exceeds jurisdiction. Hence filed this Writ Petition.

3. The learned counsel appearing for the fifth respondent submitted that the fifth respondent is a hereditary poojari. When his poojariship was restrained by the petitioner, he gave representation to the Joint Commissioner who have taken the same as A.P.No.2 of 2022, recognized the right of the fifth respondent and declared that his poojariship not to be disturbed. Thereafter, the petitioner filed a writ petition before this Court and this Court directed the petitioner to get any appropriate orders from the Commissioner within a period of 45 days. Now, 45 days got lapsed and the petitioner is unable to get any order, could not even number the appeal and thereafter, when the fifth respondent attempted to enter the temple, the petitioner restrained him. Thereafter, the issue was referred to the second respondent who conducted enquiry, and passed the impugned order. The order is only recommendatory



W.P(MD).No.18389 of 2022

in nature. It is not an enforceable order. Thereafter, it is for the Revenue Divisional Officer to give his observations and ultimately, it is for the temple authorities namely Joint Commissioner or the Commissioner to pass appropriate orders. The petitioner approaching this Court is a pre-matured one.

4. The learned Special Government Pleader appearing for the respondents 1 to 4 and 6 submitted that there is dispute with regard to right of poojariship, the fifth respondent was restrained by the petitioner. The fifth respondent right of poojariship recognized by the Joint Commissioner against which now appeal is pending before the Commissioner. The poojariship right, privileges, status, custom are to be decided by the temple authorities. If any recommendation is received from the revenue authorities, it would be considered by the temple authorities and appropriate direction would be given only by the temple authorities. The petitioner if aggrieved have to get appropriate order from the Commissioner.

5. I have considered the matter in the light of the submissions made by learned counsels for all parties and perused the records.



W.P(MD).No.18389 of 2022

WEB COPY

6. It is seen that the impugned order is only a recommendatory letter by the second respondent to the first respondent, nothing more. In view of the same, no specific order is required. Hence, the petition is dismissed accordingly. It is made clear that the rights of the parties to be agitated before the appropriate forum not by way of a writ.

7. Accordingly, this Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

22.08.2022

Index : Yes / No
Internet : Yes/ No
Nsr



W.P(MD).No.18389 of 2022



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W.P(MD).No.18389 of 2022

M.NIRMAL KUMAR, J.

Nsr

W.P(MD).No.18389 of 2022

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