



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 21.04.2022
CORAM

THE HONOURABLE MR. JUSTICE C.SARAVANAN

WEB COPY

Writ Petition (MD) No.8193 of 2018
and
W.M.P.(MD) Nos.7748 and 16800 of 2018

A.Krishnan

.. Petitioner

Versus

- 1.The Commissioner,
Hindu Religious and Charitable Endowment Office,
Nungambakkam High Road,
Chennai.
 - 2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Thiruvananthapuram Road,
Palayamkottai, Tirunelveli.
 - 3.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
South High Ground Road,
Palayamkottai, Tirunelveli.
 - 4.The Thakkar / Executive Officer,
Arulmighu Perathuselvi Amman Kovil,
Vannarpettai, Tirunelveli.
- .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records relating to the impugned order of the third respondent in Se.Mu.Na.Ka.No.4009/2008/E1, dated 16.11.2017 and the consequential impugned order dated 11.04.2018, directing to hand over the charge and quash the same.

For Petitioner	:	Mr.H.Arumugam
For R1 to R3	:	Mr.P.Subbaraj Special Government Pleader
For R4	:	Mr.S.Chellapandian

ORDER

After hearing the learned counsel for the petitioner, the learned Special Government Pleader for the respondents 1 to 3 and the learned counsel for the fourth respondent, this Writ Petition is disposed of considering the fact that there is an interim stay



insofar as the impugned order appointing the fourth respondent as Fit Person of Arulmighu Perathuselvi Amman Kovil, Vannapettai, Tirunelveli.

2.The case of the petitioner appears to be that it has been declared long back in O.P.No.185 of 1951 by the Subordinate Court, Tirunelveli, by a judgment and decree dated 04.03.1953 that the Temple namely, Palayamkottai Kuttathurai Arulmigu Balasubramania Swami Thirukovil was a private temple.

3.This is a second round of litigation before this Court. Earlier, a Fit Person was appointed by the third respondent on 12.09.2008 and the same was challenged by the petitioner in W.P. (MD) No.8576 of 2008. This Court, by order, dated 07.06.2016, allowed the said Writ Petition on the ground that the order was passed without considering the objection of the petitioner. It is pursuant to the above said exercise, the impugned order has been passed. It is submitted that the impugned order has been passed long after the expiry of time limit granted by this Court, in its order dated 07.06.2016. That apart, it is submitted that the said Temple is a private temple and continues to be a private temple and therefore, the authorities under the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 [hereinafter referred to as the 'H.R. & C.E. Act']] have no jurisdiction to appoint a Fit Person and therefore, the impugned order is liable to be quashed.

4.Opposing the prayer, the learned Special Government Pleader for the respondents 1 to 3 and the learned counsel representing the fourth respondent, who was appointed by the third respondent, submit that the petitioner has an alternate remedy under Section 21 of the H.R. & C.E. Act and therefore, it was submitted that the Writ Petition should be dismissed. That apart, it is submitted that the order passed by the learned Subordinate Judge, Tirunelveli, in O.P.No.185 of 1951, dated 04.03.1953, has no validity in the light of repeal of the Madras Hindu Religious Endowments Act, 1927 with the enactment of H.R. & C.E. Act, 1959 and therefore, it is submitted that the Writ Petition is devoid of merits.

5.I have considered the arguments advanced by the learned counsel for the petitioner, the learned Special Government Pleader for the respondents 1 to 3 and the learned counsel for the fourth respondent.

6.The character of a Temple may change over a period of time and this has been settled by the Hon'ble Supreme Court in several cases. Therefore, under Section 23 of the H.R. & C.E. Act, the Commissioner has wide powers for administration of religious endowments, institutions etc. However, this exercise has not been carried out by the Commissioner. The petitioner has also not approached the Joint Commissioner under Section 63(a) of the H.R. & C.E. Act. It is submitted that the Temple continues to be a private



temple, since the order was passed by the learned Subordinate Judge, Tirunelveli, in O.P.No.185 of 1951, dated 04.03.1953.

7.Considering the above, I am inclined to dispose this Writ Petition by directing the petitioner to approach the Joint Commissioner under Section 63(a) of the H.R. & C.E. Act within a period of 30 days from the date of receipt of a copy of this order. The petitioner is also given liberty to file an appropriate application for continuance of the interim protection given by this Court, dated 13.04.2018. The interim protection shall continue for a period of 60 days from the date of receipt of a copy of this order, within which time, the petitioner will have to file an appropriate application for continuance of the interim protection granted by this Court. In case, the petitioner fails to file such application under Section 63(a) of the H.R. & C.E. Act, this order shall stand automatically vacated *sine die*.

8.This Writ Petition stands disposed of with the above observation. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (RTI)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

- 1.The Commissioner,
Hindu Religious and Charitable Endowment Office,
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- 2.The Joint Commissioner,
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- 3.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
South High Ground Road,
Palayamkottai, Tirunelveli.

+1 CC to M/s.H.ARUMUGAM, Advocate (SR-20980[F] dated 25/04/2022)
+1 CC to M/s.SPL.GP. (SR-20460[F] dated 22/04/2022)

WP (MD) No.8193 of 2018
21.04.2022

KMV (CO)

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