



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :26.04.2022

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P(MD).No.3977 of 2014
and
M.P(MD).No.1 of 2014

N.Manivel

... Petitioner

Vs.

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

2.Sri Saranga Desikendra Swamigal Mutt,
Rep by Sri-la-Sri Neelakanda Saranga
Desigendra Swamigal,
Head Post Office Road,
Kumbakonam,
Tanjore District.

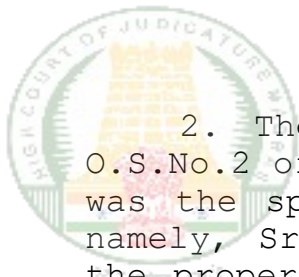
... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the first Respondent to take suitable action against the second Respondent on the basis of the scheme decree passed in O.S.No.02/1940 by the Hon'ble District Judge, West Tanjore and on the basis of the undertaking given by the second Respondent in W.P.No.1041/2005 dated 20.01.2005.

For Petitioner	: Mr.Babu Rajendran
For R1	: Mr.P.Subbaraj
	Special Government Pleader
For R2	: Mr.N.Jeyaprakash

ORDER

This writ petition has been filed for a writ of Mandamus to direct the first respondent to take suitable action against the second respondent represented by its Sri-La-Sri Neelakanta Saranga Desikendra Swamigal on the basis of the scheme decree passed in O.S.No.2 of 1940 passed by the Hon'ble District Judge, West Tanjore and on the basis of the undertaking given by the second respondent in W.P.(MD).No.1041 of 2005 vide order dated 20.01.2005.



2. The facts indicate that the scheme decree was passed in O.S.No.2 of 1940. As per the scheme decree, Matathipathi/Head priest was the spiritual and temporal head of the second respondent Mutt namely, Sri-La-Sri Neelakanta Saranga Desikendra Swamigal and that the property of the Mutt shall be administered by the Matathipathi and the committee of management chosen by the Matathipathi from and among the persons interested in the Mutt and living in Tanjore District subject to the approval of the Madras Hindu Religious and Charitable Endowments Board, which now stands replaced by the Hindu Religious and Charitable Endowment.

3. It is the specific case of the petitioner that the erstwhile Matathipathi of the second respondent Mutt, namely, Sri-La-Sri Neelakanta Saranga Desikendra Swamigal had alienated several properties of the Mutt contrary to the scheme decree in O.S.No.2 of 1940 and therefore, a fit person came to be appointed by the first respondent department.

4. Under these circumstances, then Matathipathi of the second respondent, namely, Sri-La-Sri Neelakanta Saranga Desikendra Swamigal filed W.P.(MD).No.1041 of 2005, wherein, on 20.01.2005, the following orders were passed:

"Heard Mr.T.R.Rajagopalan, learned senior counsel for the petitioner and learned Advocate General for the respondent HR&CE Board.

2. In view of the submissions made by both parties, the writ petition is disposed of subject to the following directions:-

(i) The trial Court is directed to dispose of the suit finally within a period of two months from the date of receipt of copy of this order.

(ii) The HR&CE Board agrees to withdraw the fit person and to hand over the possession of the Mutt properties to the writ petitioner forthwith.

(iii) Petitioner undertakes not to alienate the properties pending disposal of the suit.

(iv) It is open to the HR&CE Department to move the trial Court for any interim relief as they may deem fit.

3. The writ petition is disposed of accordingly. No costs. Consequently, W.P.M.P.No.1155 of 2005 is closed."

5. The learned counsel for the petitioner submits that meanwhile the suit was decreed on 30.06.2005. A further appeal was filed by the said Matathipathi in A.S.No.103 of 2005 was dismissed by the first Appellate Court on 13.02.2006 and thereafter, further appeal was filed before this Court in S.A(MD).No.1086 of 2006, which came to be allowed in favour of the second respondent represented by its present Matathipathi, namely, Sri-La-Sri Neelakanta Saranga Desikendra Swamigal. The appeal filed by the second respondent has been allowed with the following observations:



"10. In the normal course of events, I could have left it at that, but the case on hand pertains to integrity of land holdings of a Math. Serious allegations have been made that the Madathipathi himself had alienated the properties in question. The Commissioner had also filed the suit only before the jurisdictional Sub Court. Only due to mistake on the part of the Court concerned, the suit had been transferred to the Court of District Munsif. For the fault committed by the Court, the parties cannot suffer. Therefore, I remand the matter to the file of the Principal Sub Court, Kumbakonam.

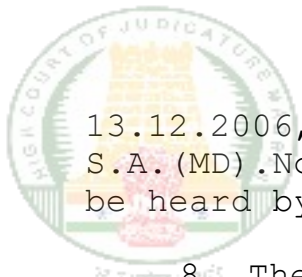
11. I notice that the cause title had been improperly drafted. The prayer is for removing the pontiff from the Headship of the Math. But the pontiff has not been impleaded as a defendant. Not only the Math, but the concerned pontiff should be specifically arrayed as defendant.

12. Since the suit was filed way-back in the year 1991 and we are now in 2020, further developments might have taken place. Therefore, the respondent/plaintiff is at liberty to file an amendment petition also. I make it clear that the impleaded defendant would be at liberty to file an independent written statement raising all the defences open to him.

13. Since following the remand, though a new number will be assigned, the fact remains that it is a 30 years old suit. Therefore, the Trial Court will definitely bestow its attention to expedite the disposal of the suit. The second appeal is allowed, accordingly. No costs. Consequently, connected miscellaneous petitions are closed."

6. Opposing the prayer, the learned counsel for the second respondent submits that nothing survives for adjudication in this writ petition inasmuch as the original Matathipathi, namely, Sri Santha Deva Saranga Desikendra Swamigal died on 1999 and therefore, no further action was required to be taken by the Hindu Religious and Charitable Endowments Department.

7. It is further submitted that the action of the Hindu Religious and Charitable Endowments Department appointing a fit person was challenged by the erstwhile Matathipathi in W.P.(MD). No.652 of 1988, wherein, an order came to be passed on 01.02.1988. It is submitted that as per the said order, the Hindu Religious and Charitable Endowments Department was directed to file appropriate suit to remove the Madathipathi pursuant to which the Hindu Religious and Charitable Endowments Department filed O.S.No.114 of 1992 before the Sub Court, Kumbakonam which was subsequently transferred to District Munsif Court, Kumbakonam and re-numbered as O.S.No.580 of 2004. It is further submitted that though the suit was decreed and affirmed by the Appellate Court in A.S.No.105 of 2005 on



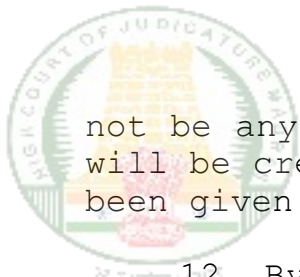
13.12.2006, the said decision was set aside recently by this Court S.A.(MD).No.1086 of 2006 on 18.09.2020 and remanded the case back to be heard by the Sub Court, Kumbakonam.

8. The learned counsel for the second respondent submits that the then Matathipathi, namely Sri-La-Sri Neelakanta Saranga Desikendra Swamigal has passed away and therefore cause of action in O.S.No.580 of 2004 (formerly O.S.No.114 of 1992) was no longer relevant and therefore there is no necessity for taking action against the second respondent now represented by Sri La Sri Neelakanta Saranga Desikendra Swamigal. It is therefore submitted that the present writ petition is liable to be dismissed.

9. The learned counsel for the Hindu Religious and Charitable Endowments Department before the Sub Court submits that the suit has been now re-numbered as O.S.No.165 of 2021 and appropriate action have been taken against the Mutt and the present Madathipathi. It is further submitted that the erstwhile Matathipathi had not only alienated several properties belonging to the Mutt but had also leased several properties contrary to Section 34 of the Hindu Religious and Charitable Endowments Act. It is therefore submitted that the interest of the Mutt is being protected by the Hindu Religious and Charitable Endowments Department and it is open for the petitioner to implead himself in the said proceedings, if the petitioner so desires. It is submitted that there is no requirement for passing a separate order in this writ petition during the pendency of the said proceedings and in the light of the subsequent development.

10. The learned counsel for the petitioner interjects stating that the attempt of the second respondent has been to diffuse the problem by giving an undertaking before this Court. In this connection, it was mentioned that earlier a writ petition was filed in W.P.(MD).No.1041 of 2005 and at the time of admission itself the writ petition was disposed of by giving an undertaking based on a compromise that was stitched between the petitioner therein, namely, the second respondent herein and the Hindu Religious and Charitable Endowments Department. Though the undertaking was given before this Court on 20.01.2005 in W.P.(MD).No.1041 of 2005, the said undertaking was observed in breach. It is submitted that even when the proceedings were initiated against the current incumbent namely, the second respondent Sri La Sri Neelakanta Saranga Desikendra Swamigal.

11. Another writ petition was filed in W.P.(MD).No.14013 of 2016 and the writ petition on 18.09.2020, the day on which the second appeal was disposed by giving an undertaking that the present head of the Mutt will not deal with the property of the Mutt in violation of principles laid down in Section 34 of the Hindu Religious and Charitable Endowments Act, 1959 and that there will



not be any alienation of the Mutt properties and no long term lease will be created. It is submitted that though such an undertaking has been given there are several breaches committed by the petitioner.

12. By way of rejoinder, the learned counsel for the petitioner submits that the suit was filed under Section 59 of the Hindu Religious and Charitable Endowments Act and irrespective of the same action of the second respondent represented by its Matathipathi is to be enquired and appropriate action has to be taken as several alienation has taken place contrary to the scheme decree in O.S.No.2 of 1940 dated 27.02.1941 and in terms of the undertaken given by the Matathipathi, namely, Sri-La-Sri Neelakanta Saranga Desikendra Swamigal in W.P.(MD).No.1041 vide order dated 20.01.2005.

13. I have considered the arguments advanced by the learned counsel for the petitioner, the Special Government Pleader for the first respondent and the learned counsel for the second respondent.

14. The suit filed by the Hindu Religious and Charitable Endowments Department pursuant to an order dated 01.02.1988 in O.S.No.652 of 1988 which was earlier decreed has now been nullified and remanded back to the Sub Court in O.S.No.165 of 2021 pursuant to an order of this Court in S.A.(MD).No.1086 of 2006. The current incumbent of the Mutt namely, Sri-La-Sri Neelakanta Saranga Desikendra Swamigal, who is now in control of the said Mutt has given an undertaking that there will not be any alienation contrary to Section 34 of the Hindu Religious and Charitable Endowments Act, 1959 or long term lease entered in contravention of the Act.

15. Therefore, I do not find any reasons to pass any orders since civil Court is seized of the matter in O.S.No.165 of 2021. If the petitioner wants to make any representations in the said proceedings, it is open for the petitioner to file appropriate applications as an intervener and make appropriate submissions before the said Court.

16. The writ petition stands dismissed by giving liberty to the petitioner to approach the Sub Court in the said proceedings. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD II)

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Sub Assistant Registrar(CS)

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To

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

2.Sri Saranga Desikendra Swamigal Mutt,
Rep by Sri-la-Sri Neelakanda Saranga
Desigendra Swamigal,
Head Post Office Road,
Kumbakonam,
Tanjore District.

+1. CC to Mr.BABU RAJENDRAN, Advocate SR.No. 21231
+1. CC to Mr.C.GODWIN , Advocate SR.No. 21138
+1. CC to Mr.SPECIAL GOVERNMENT PLEADER SR.No.21875

W.P (MD) .No.3977 of 2014
26.04.2022

SS/25.05.2022 : 6P/6C