



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 15.03.2022
CORAM

THE HONOURABLE MR. JUSTICE C.SARAVANAN

WEB COPY

Writ Petition (MD) No.12424 of 2018
and
W.M.P. (MD) Nos.11291 & 11292 of 2018

V.Chandrakala

.. Petitioner

Versus

1.The Commissioner,
Hindu Religious and Charitable Endowments,
119, Uthamar Gandhi Salai
Nungambakkam,
Chennai.

2.The Fit Person,
Arulmigu Kariyamal Alagar Temple,
Nalatinputhur,
Kovilpatti Taluk,
Tuticorin District.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.58433/2017/V.3, dated 11.03.2018, on the file of the first respondent herein, quash the same as illegal and consequently, direct the respondents herein to permit the petitioner to complete the construction of compound wall as per Rule 11 of the Management and Preservation of Properties of Religious Institutions Rules at 'Arulmigu Sri Vellaipandi Swamy Kovil' at Nallatinputhur, Kovilpatti Taluk, Tuticorin District.

For Petitioner : Mr.M.Mahaboob Fazil

For R1 : Mr.P.Subbaraj
Special Government Pleader

For R2 : Mr.M.Muthugeethayan

ORDER

The petitioner has challenged the impugned order passed by the first respondent - Commissioner, H.R. & C.E., Department. By the impugned communication, the first respondent has declined to give permission for the petitioner for putting up a compound wall around Arulmigu Sri Vellaipandi Swamy Kovil, at Nallatinputhur, Kovilpatti Taluk, Tuticorin District, which has been constructed sometime back



in 2002 by members belonging to the community to which the petitioner belongs.

2.It is submitted that the petitioner has a right to construct a compound wall around the aforesaid Temple in terms of Rule 11 of the Management and Preservation of Properties of Religious Institutions Rules framed under the provisions of the Hindu Religious and Charitable Endowments Act, 1959.

3.It is submitted that instead of allowing the petitioner to put up construction around the aforesaid Temple, the first respondent has directly decided that the Temple is a public Temple and therefore, the petitioner cannot exercise exclusive right over the Temple and therefore, the impugned order is liable to be quashed.

4.Opposing the prayer, the learned Special Government Pleader for the first respondent and the learned counsel for the second respondent submits that the Temple in question namely, Arulmigu Sri Vellaipandi Swamy Kovil is the sub-temple of the second respondent Arulmigu Kariyamal Alagar Temple. It is submitted that there is also another sub-temple called ''Veera Eraammal Temple''. It is submitted that the second respondent Temple owns a total extent of 7.53 Acres in S.No.193/1 in Nallatinpudur Village, Kovilpatti Taluk, Thoothukudi District. It is therefore submitted that these constructions have been put up long after the second respondent Temple was taken over by the H.R. & C.E. Department, as detailed in the proceedings of the Special Deputy Collector (Temple Lands), Madurai, on 01.10.1973. It is submitted that the aforesaid proceeding is categorically silent about the existence of the two Temples mentioned above. It is therefore submitted that the petitioner cannot claim rights over the Temple by stating that the deity namely, Sri Vellaipandi Swamy is the clan deity [Kuladeivam] of the petitioner.

5.The learned counsel for the second respondent has also brought to the attention of this Court to the Property Register of the Temple, which is dated05.2015 [signed by the Joint Commissioner on 08.05.2015], wherein, there is a specific reference to the above said two Temples. It is therefore submitted that the petitioner cannot have any right over the Temple property belonging to the second respondent Temple.

6.I have considered the arguments advanced by the learned counsel for the petitioner, the learned Special Government Pleader for the first respondent and the learned counsel for the second respondent and perused the averments filed in support of the Writ Petition and the counter affidavit filed by the second respondent.

7.The impugned order is silent when the above said two sub-temples came into existence. The impugned order also indicates that a Thakkar was appointed on 28.11.2007. Prior to the above said period, the Temple was under the administration of the Hereditary



Trustee and thereafter, it has been under the control of the Fit Person appointed by the H.R. & C.E. Department. Admittedly, the Temple has come up long after 1973 as the proceedings of the Special Deputy Collector (Temple Lands), bearing S.R.No.37/73/KLP, dated 01.10.1973. It is silent about the existence of these two sub-temples. These two sub-temples were not constructed with the permission of the H.R. & C.E. Department. It was built taking advantage of the damage to compound wall of the second respondent Temple which could not be constructed for want of fund. It appears that members belonging to the community to which the petitioner belongs, have encroached and unilaterally put up construction in gross violation of the provisions of the H.R. & C.E. Act, as admittedly no permission was obtained by them from the respondents to put up construction on the land, which *prima facie* belongs to the second respondent Temple. Therefore, it is not for the petitioner to put up a compound wall around the sub-temple to exclude a section of devotees or to treat the Temple as a private Temple within the precincts of the second respondent Public Temple Arulmigu Kariyamal Alagar Temple. Therefore, I do not find any reason to interfere with the impugned order. At the same time, liberty is given to the petitioner to work out remedy in accordance with law to establish that the said Vellaipandi Swamy Temple is a private Temple.

8. In the result, this Writ Petition is dismissed with the aforesaid liberty. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS I)

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/ /2022

Sub Assistant Registrar(CS)

smn

To

The Commissioner,
Hindu Religious and Charitable Endowments,
119, Uthamar Gandhi Salai
Nungambakkam,
Chennai.

+1 CC to M/s.M.MUTHU GEETHAYAN, Advocate (SR-12586[F] dated 16/03/2022)

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-12621[F] dated 17/03/2022)

+1 CC to M/s.SPL GP (SR-12491[F] dated 16/03/2022)

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