



W.P. (MD) Nos. 16470 of 2015 and 8506 of 2016

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.12.2022

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P.(MD)No. 16470 of 2015 and 8506 of 2016

and

M.P.(MD) No. 1 of 2015

and

W.M.P. (MD) No. 5672, 6807 and 8506 of 2016

W.P.(MD)No. 16470 of 2015:-

V.Shanmuganathan

... Petitioner

Vs.

- 1.The Joint Commissioner,
Hindu Religious and Endowments Department,
Thanjavur.
- 2.The Joint Commissioner,
Hindu Religious and Endowments Department,
Mayiladuthurai.
- 3.The Inspector,
Hindu Religious and Endowments Department,
Thiruvaidaimarudur,
Thanjavur District.



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4. Sri Muthu Mariamman,
Sri Muthu Kaliyamman Narpani Mandram,
Registered Trust, Rep. by its Founder and
Trustee and Chairman of the Trust
K. Sakthivel,
No.3/439, Sivan Kovil North Street,
Ammachathiram Post,
Kumbakonam Taluk,
Thanjavur District.

... Respondents

(R4 is impleaded Vide Court Order District
30/03/16 in M.P. (MD) No. 2/15 by BRJ).

Petition filed under Article 226 of the Constitution of India, for issue of Writ of Mandamus, to forbear the 3rd respondent herein from in any way interfering with the day to day affairs and administration of Arulmigu Sree Muthumariamman cum Sri Muthukaliyamman Temple, at Ammachathiram Village, Kumbakonam Taluk, Thanjavur District.

For Petitioner : Mr. B.Jameel Arasu

For Respondents 1 to 3 : Mr. T.Villavankothai
Additional Government Pleader

For 4th Respondent : Mr. M.Saravanan



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Sri Muthu Mariamman, Sri Muthu Kaliyamman Narpani Mandram,
A Registered Trust,
Rep. by its Trustee Sukumar,
No.3/439, Sivan Kovil North Street,
Ammachathiram Post,
Kumbakonam Taluk,
Thanjavur District.

... Petitioner

Vs.

- 1.The Commissioner,
Hindu Religious and Charitable Endowment Department,
Chennai – 600 034.
- 2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Mayiladuthurai.
- 3.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Kumbakonam,
Thanjavur District.
- 4.The Inspector,
Hindu Religious and Charitable Endowments Department,
Thiruvidadaimarudur,
Thanjavur District..
- 5.The Tahsildar,
Kumbakonam,
Thanjavur District.

6.V. Shanmuganathan

... Respondents



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Petition filed under Article 226 of the Constitution of India, for issue of Writ of Mandamus, to direct the respondents 1 to 5 to prevent the 6th respondent from conducting the festival of Sri Muthumariamman Sri Muthukaliamman temple situated at Sivan Kovil South street, Ammachathiram, Kumbakonam Taluk, Thanjavur District from 02.05.2016 to 10.05.2016 or any other subsequent dates violating the peace committee meeting dated 01.08.2015 conducted by the 5th respondent.

For Petitioner : Mr. M.Saravanan

For Respondents 1 to 5 : Mr. T.Villavankothai
Additional Government Pleader

For 6th Respondent : Mr.B.Jameel Arasu

COMMON ORDER

Heard Mr. B.Jameel Arasu, Learned Counsel for the Petitioner in W.P.(MD) No. 16470 of 2015 and Sixth Respondent in W.P.(MD) No. 8506 of 2016, Mr. T.Villavankothai, Learned Additional Government Pleader appearing for the First to Third Respondent in W.P.(MD) No. 16470 of 2015 and First to Fifth Respondent in W.P.(MD) No. 8506 of 2016 and Mr. B.Saravanan, Learned Counsel for the Petitioner in W.P. (MD) No. 8506 of 2016 and the Fourth Respondent in W.P.(MD) No.16470 of 2015 and perused the materials placed on

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Charitable Endowments Department, but did not carry out the said obligation. In that backdrop, the Inspector, Hindu Religious and Charitable Endowments Department, by notices dated 01.09.2015 and 04.09.2015 called upon the said V.Shanmuganathan to attend an enquiry on 04.09.2015 and 11.09.2015, but he did not attend those meeting and in such circumstances, direction has been sought against the First to Fifth Respondents to prevent the said V.Shanmuganathan from conducting the festival of the Temple from 02.05.2016 to 10.05.2016 in violation of decision arrived at the Peace Committee meeting held on 01.08.2015 between the parties.

4. Having regard to the rival contentions, it is evident that the said V.Shanmuganathan claims to be the Hereditary Trustee and the Trust contends that it is a Village Temple and the said Shanmuganathan cannot have any hereditary right. These questions clearly fall within the purview of Section 63 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, which is extracted below:-

“63. Joint Commissioner or Deputy Commissioner to decide certain disputes and matters.—Subject to the rights of suit or appeal



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hereinafter provided, the Joint Commissioner or the Deputy Commissioner, as the case may be, shall have power to inquire into and decide the following disputes and matters:—

- (a) whether an institution is a religious institution ;
- (b) whether a trustee holds or held office as a hereditary trustee ;
- (c) whether any property or money is a religious endowment ;
- (d) whether any property or money is a specific endowment ;
- (e) whether any person is entitled, by custom or otherwise, to any honour, emolument or perquisite in any religious institution ; and what the established usage of a religious institution is in regard to any other matter ;
- (f) whether any institution or endowment is wholly or partly of a religious or secular character; and whether any property or money has been given wholly or partly for religious or secular uses ; and
- (g) where any property or money has been given for the support of an institution which is partly of a religious and partly of a secular character, or the performance of any service or charity connected with such an institution or the performance of a charity which is partly of a



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religious and partly of a secular character or where any property or money given is appropriated partly to religious and partly to secular uses, as to what portion of such property or money shall be allocated to religious uses.”

5. This Court in the exercise of discretionary powers of judicial review of the decision-making process under Article 226 of the Constitution of India is not inclined to delve into such factual controversies when an appropriate legal remedy is available under the relevant statutory provision before the Joint Commissioner, Hindu Religious and Charitable Endowments Department to decide the claims of the Petitioners in both the Writ Petitions. In that view of the matter, this Court, without expressing any view on the merits of controversy involved, leaves it open to either of the Petitioners to work out their rights, if they are so intend, under the said statutory provision or any other legal remedy available under law.



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6. In fine, these Writ Petitions are disposed with the aforesaid observations.

Consequently, the connected Miscellaneous Petitions are closed. No costs.

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sj

Index : Yes/No

Note: Issue order copy by 30.01.2023.

To

1. The Commissioner,
Hindu Religious and Charitable Endowment Department,
Chennai – 600 034.
2. The Joint Commissioner,
Hindu Religious and Endowments Department,
Thanjavur.
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4. The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
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Thanjavur District.
5. The Inspector,
Hindu Religious and Charitable Endowments Department,
Thiruvidadimarudur,

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6.The Tahsildar,
Kumbakonam,
Thanjavur District.



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P.D. AUDIKESAVALU, J.

sj

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