



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.04.2022

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P (MD) .Nos.19929 of 2015

and 23696 to 23698 of 2018

W.M.P (MD) .Nos.21470 to 21472 of 2018

W.P. (MD) .No.19929 of 2015

Arulmighu Senthatti Ayyanar Muthaiah Swamy Thirukoil
Kula Theivega Valipaduvoor Arakattalai
rep. by its Founder Trustee R.Muthaiah
Keela Marainadu Village,
Sivakasi Taluk, Virudhunagar District. ... Petitioner

Vs.

- 1.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Virudhunagar Division, Virudhunagar.
- 2.The Special Officer/Executive Officer,
Arulmighu Senthatti Ayyanar Thirukoil,
Keelan Marainadu Village, Sivakasi Taluk,
Virudhunagar District.
Office at Arulmighu Viswanatha Samy Thirukoil,
Sivakasi.
- 3.Parthasarathy
- 4.Muruga Boopathy
- 5.Thirunavukkarasu
- 6.Rajendran ... Respondents

(R3 to R6 are impleaded vide Court order dated
07.12.2017 in W.M.P. (MD) .No.18623 of 2017)

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order of the first respondent dated 14.2.2015 made in செ.மு.ந.க.326/2015/ஆ3 and quash the same and pass suitable direction, directing the 1st respondent to nominate or authorize a person from the members of the petitioner Arakattalai to administer the temple Arulmighu Senthatti Ayyanar Swamy Thirukoil, Keelan Marainadu Village, Sivakasi Taluk, Virudhunagar District and perform festivals.

For Petitioner	: Mr.P.Karthick
For R1	: Mr.P.T.Thiraviam Government Advocate
For R2	: Mr.P.Mahendran
For R3 to R6	: No Appearance



W.P. (MD) .No.23696 of 2018

R.Parthasarathi

... Petitioner

Vs.

- 1.The District Collector,
Virudhunagar,
Virudhunagar District.
- 2.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Virudhunagar Division,
Virudhunagar District.
- 3.The Executive Officer,
Arulmighu Vishavanatha Swamy Thirukovil,
I/C Special Officer,
Arulmigu Senthatti Ayyanar Thirukovil,
Keelan Marainadu Village,
Sivakasi Taluk,
Virudhunagar District.

4.S.Rajendran

5.Muthiah

...Respondents

(R5 is impleaded vide Court order dated
07.11.2019 in W.M.P.(MD).No.17483 of 2019)

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 2 and 3 to permit the petitioner to perform poojari functions in the Senthatti Ayyanar Kovil, Keelan Maraianadu, Sivakasi Taluk, Virudhunagar District, along with two other poojaris on the basis of the petitioner's representation dated 01.10.2018.

For Petitioner	: Mr.F.X.Eugene
For R1, R2	: Mr.P.T.Thiraviam Government Advocate
For R3	: Mr.P.Mahendran
For R4	: Mr.G.Aravinthan
For R5	: Mr.P.Karthick

W.P. (MD) .No.23697 of 2018

C.Murugaboopathi

... Petitioner

Vs.

- 1.The District Collector,
Virudhunagar,
Virudhunagar District.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Virudhunagar Division,
Virudhunagar District.

3.The Executive Officer,
Arulmighu Vishavanatha Swamy Thirukovil,
I/C Special Officer,
Arulmigu Senthatti Ayyanar Thirukovil,
Keelan Marainadu Village,
Sivakasi Taluk,
Virudhunagar District.

4.S.Rajendran

5.Muthiah

...Respondents

(R5 is impleaded vide Court order dated
07.11.2019 in W.M.P.(MD).No.17486 of 2019)

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 2 and 3 to permit the petitioner to perform poojari functions in the Senthatti Ayyanar Kovil, Keelan Maraianadu, Sivakasi Taluk, Virudhunagar District, along with two other poojaris on the basis of the petitioner's representation dated 01.10.2018.

For Petitioner	: Mr.F.X.Eugene
For R1, R2	: Mr.P.T.Thiraviam Government Advocate
For R3	: Mr.P.Mahendran
For R4	: Mr.G.Aravinthan
For R5	: Mr.P.Karthick

W.P. (MD) .No.23698 of 2018

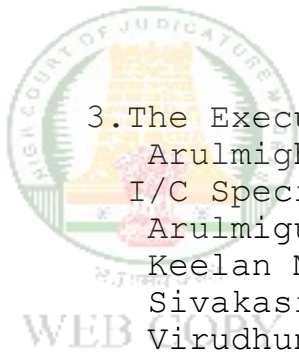
T.Thirunavukarasu

... Petitioner

Vs.

1.The District Collector,
Virudhunagar,
Virudhunagar District.

2.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Virudhunagar Division,
Virudhunagar District.



3.The Executive Officer,
Arulmighu Vishavanatha Swamy Thirukovil,
I/C Special Officer,
Arulmigu Senthatti Ayyanar Thirukovil,
Keelan Marainadu Village,
Sivakasi Taluk,
Virudhunagar District.

4.S.Rajendran

5.Muthiah

...Respondents

(R5 is impleaded vide Court order dated
07.11.2019 in W.M.P. (MD).No.17488 of 2019)

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 2 and 3 to permit the petitioner to perform poojari functions in the Senthatti Ayyanar Kovil, Keelan Maraianadu, Sivakasi Taluk, Virudhunagar District, along with two other poojaris on the basis of the petitioner's representation dated 01.10.2018.

For Petitioner	: Mr.F.X.Eugene
For R1, R2	: Mr.P.T.Thiraviam
	Government Advocate
For R3	: Mr.P.Mahendran
For R4	: Mr.S.Vinoth
For R5	: Mr.P.Karthick

COMMON ORDER

These three writ petitions, namely, W.P.(MD).Nos.23696 to 23698 of 2018 have filed for a writ of Mandamus. The prayers in these writ petitions read as under:

"Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 2 and 3 to permit the petitioner to perform poojari functions in the Snthatti Ayyanar Kovil, Keelan Maraianadu, Sivakasi Taluk, Virudhunagar District, along with two other Poojaris on the basis of the petitioner's representation dated 01.10.2018."

2. The fifth respondent, herein, who was subsequently impleaded had earlier filed W.P.(MD).No.19929 of 2015. The prayer in the said writ petition reads as under:

"Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order of the first respondent dated 14.02.2015 made in nr.K.e.f.326/2015/M3 and



quash the same and pass suitable direction, directing the first respondent to nominate or authorize a person from the members of the petitioner Arakattalai to administer the temple Arulmighu Senthatti Ayyanar Swamy Thirukoil, Keelan Marainadu Village, Sivakasi Taluk, Virudhunagar District and perform festivals."

3. W.P(MD).No.19929 of 2015 has been filed for a writ of Certiorarified Mandamus to call for the records relating to the order of the first respondent, dated 14.02.2015 made in செ.மு.ந.க.326/2015/ஆ3 and quash the same.

4. By the aforesaid order, the second respondent, namely, the Special Officer/Executive Officer, Arulmighu Senthatti Ayyanar Thirukoil, Keelan Marainadu Village, Sivakasi Taluk, Virudhunagar District in W.P(MD).No.19929 of 2015 has been appointed as Special Officer for a period of one year and thereafter by an order, dated 24.02.2015 have been appointed permanently.

5. Against this order, an appeal is said to be pending at the behest of one R.Muthiah, before the Commissioner, Hindu Religious and Charitable Endowments Department, who is the fifth respondent in W.P(MD).Nos.23696 to 23698 of 2018.

6. The appointment of the Special Officer/Executive Officer is pursuant to an order passed by this Court on an earlier occasion on 09.02.2015 in W.P.(MD)Nos.19724 and 19962 of 2014. There are a private dispute between these three petitioners in W.P.(MD)Nos.23696 to 23698 of 2018 and one S.Rajendran.

7. During the course of hearing, the learned counsel for the third respondent, herein, has produced the copy of order, dated 24.02.2022 in W.P.(MD).No.3516 of 2022, filed by R.Muthiah, fifth respondent, herein, in W.P.(MD).No.2396 to 2398 of 2018. The Court has disposed the W.P.(MD).No.3516 of 2022 at the time of admission itself with the following observations.

"This writ petition has been filed for a Mandamus seeking for a direction to the respondents 4 and 5 to convene a Peace Committee Meeting and thereby grant permission to the petitioner to perform poojas in Arulmigu Senthatti Ayyanar Muthaiah Swamy Thirukovil, Keelan Marainadu Village, Vembakottai Taluk, Virudhunagar District on Maha Sivarathiri to be held on 01.03.2022 and also to provide Annathanam on 02.03.2022 in the light of the order passed by this Court in W.P.[MD]No.19724 of 2014.



2. Heard Mr.A.Mohan, learned Counsel for the writ petitioner, Mr.D.Sasikumar, learned Additional Government Pleader who accepts notice on behalf of respondents 1, 3 & 4, Mr.P.Subbaraj learned Special Government Pleader who accepts notice on behalf of the second respondent and

Mr.P.Mahendran, learned Standing Counsel who accepts notice on behalf of the fifth respondent.

3. The petitioner seeks implementation of the order dated 09.02.2015 passed by this Court in W.P.[MD] Nos.19724 & 19962 of 2014. His apprehension is that till date Peace Committee Meeting has not been convened for the festival which is scheduled to take place on 01.03.2022.

4. Today, learned Additional Government Pleader appearing for the respondents would submit that a Peace Committee Meeting is scheduled to be held on 28.02.2022, where the petitioner and other rival parties will be heard with

regard to their participation in the festival scheduled to take place on 01.03.2022 at Arulmigu Senthatti Ayyanar Muthaiah Swamy temple.

5. Learned Counsel for the petitioner on instructions is satisfied with the submissions made by learned Additional Government Pleader for the respondents that Peace Committee Meeting will be held on 28.02.2022.

6. In terms of the undertaking given by the learned Additional Government Pleader appearing for the official respondents that Peace Committee Meeting shall be held on 28.02.2022, this Writ Petition is disposed of. There shall be no order as to costs."

8. It is the specific case of the petitioners that the three petitioners in W.P.(MD).Nos.23696 to 23698 of 2018 are the hereditary trustee of that public religious temple/institution and since there was dispute between the petitioners and the fifth respondent, namely, Muthiah, a suit came to be filed in O.S.No.151 of 2014 before the District Munsif Court, Sivakasi.

9. The three petitioners in W.P.(MD)Nos.23696 to 23698 of 2018 have filed O.S.No.151 of 2014 before the District Munsif Court, Sivakasi. The suit was filed by these three writ petitioners against S.Rajendran, fourth respondent in W.P.(MD)Nos.23696 to 23698 of 2018/sixth respondent in connected W.P.(MD)No.19929 of 2015.



10. It is submitted that the fifth respondent (S.Rajendran) had filed an appeal before the first appellate Court in A.S.No.27 of 2018, Sub Court, Sivakasi and that the stay petition was filed to stay the operation of judgment and decree, dated 02.08.2018 in O.S.No.151 of 2014, passed by the District Munsif Court, Sivakasi was dismissed.

11. The appeal suit has been dismissed on 29.03.2022 against the judgment and decree of the District Munsif Court, Sivakasi, the Mandamus may be ordered. It is therefore submitted that the continuance of the fourth respondent, herein, to perform the religious ceremony is liable to be interfered. The necessity for continuance of the fourth respondent is no longer further in the light of judgment and decree of the Trial Court in O.S.No.151 of 2014, dated 02.08.2018.

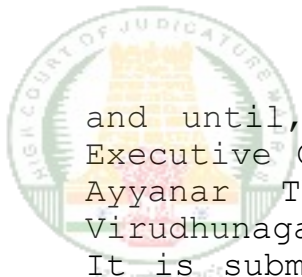
12. The learned counsel for the contesting respondents submits that the said respondent is taking steps to file further appeal before this Court against the order of the Sub Court.

13. The suit was filed for declaration that these petitioners are the temple priest of Arulmighu Senthatti Ayyanar Thirukoil, Keelan Marainadu Village, Sivakasi Taluk, Virudhunagar District. The suit was decreed partly by the Court on 02.08.2018 by granting an order of injunction.

14. The learned counsel for the fifth respondent in W.P.(MD) Nos.23696 to 23698 of 2018 (R.Muthaih)/petitioner in W.P.(MD) Nos.19929 of 2015 submits that the earlier appointment made on 14.02.2015 is liable to be quashed and the succeeding order, dated 24.02.2015 is also liable to be quashed. It is submitted that earlier O.S.No.317 of 2004 was filed by Rani V.S.Balakumari Natchiar representing Sivagiri Zamin claiming title over the property of the Arulmighu Senthatti Ayyanar Thirukoil, Keelan Marainadu Village, Sivakasi Taluk, Virudhunagar District.

15. It is submitted that O.S.No.317 of 2004 was returned for being presented before the proper Court. Till date, the said suit has not been represented before the proper Court and during the interregnum, three petitioners in W.P.(MD)Nos.23696 to 23698 of 2018 filed O.S.No.151 of 2014 before the District Munsif Court, Sivakasi.

16. It is submitted that without establishing any credentials as to whether the suit property belongs to Sivagiri Zamin or not, these petitioners in W.P.(MD)Nos.23696 to 23698 of 2018 have obtained decree from the Trial Court. It is submitted that unless



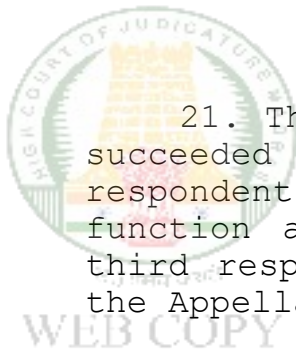
and until, the title is decided question of appointment of the Executive Officer or a Special Officer, namely, Arulmighu Senthatti Ayyanar Thirukoil, Keelan Marainadu Village, Sivakasi Taluk, Virudhunagar District as Special Officer was without jurisdiction. It is submitted that such a person cannot continue to function as the Special Officer or Executive Officer. It is further submitted that the Special Officer/Executive Officer is seen taking sides in favour of the section of the community and therefore it is a fit case for quashing the impugned order, dated 14.02.2015.

17. The learned counsel for the Special Officer/Executive Officer/second respondent in W.P.(MD)Nos.19929 of 2015 on the other hand submits that these three petitioners in W.P.(MD)Nos.23696 to 23698 of 2018 had attempted to close down the temple and deprived the public from offering their prayer or worshipping and therefore a necessity arose for appointing the second respondent as a Special Officer/Executive Officer. It is submitted that the temple festival are being conducted regularly without any untoward incidences and that the petitioner, namely, founder of the trustee R.Muthaih and the rival groups have accepted and offering prayers in the temple. It is further submitted that hundial also been placed within the temple premises and accounts have been properly maintained and that worshipping of the deity is happening without any untoward incidence.

18. It is further submitted that the devotees visit the temple and offer pooja and till date, there is no cause for any complaint. He therefore submits that these writ petitions may be dismissed. The learned counsel for the Special Officer/Executive Officer further submits that the private respondents herein have resorting to violence and disturbances and therefore, this year also temple festival was conducted, pursuant to an order, dated 24.02.2022 in W.P.(MD).No.3516 of 2022, after the Peace Committee Meeting was held by the Thasildar in terms of the order cited above.

19. Appearing on behalf of the official respondents, the learned counsel for the respondents submits that an order, dated 24.02.2015 of the Assistant Commissioner has not been disturbed till date and therefore challenge to order, dated 14.02.2015 is of no significance. It is further submitted that in any event, order has not been set aside till date. That apart, it is submitted that there is a private dispute between the three petitioners in W.P.(MD) Nos.23696 to 23698 of 2018 and S.Rajendran. The Hindu Religious and Charitable Endowments Department is not a party and therefore on this count also, these writ petitions are liable to be dismissed.

20. I have heard the learned counsel for the petitioner and the learned Government Advocate for the first respondent and learned counsel for the second respondent in W.P.(MD).No.19929 of 2015 and the learned counsel for the petitioner and the learned Government Advocate for the respondents 1 and 2 and the learned counsel for the respondents 3 to 5 in W.P.(MD).Nos.23696 to 23698 of 2018.



21. The petitioners in W.P.(MD).Nos.23696 to 23698 of 2018 have succeeded and have obtained an injunction restraining the fifth respondent from interfering with the capacity to discharge the function as the temple priest. A further appeal was filed by the third respondent was also dismissed by the Judgment and decree of the Appellate Court.

22. Considering the same, I direct the respondents 2 and 3 to positively consider the petitioners' representation in the light of Judgment and decree dated, 29.03.2022 of the Sub Court, Sivakasi in Appeal No.27 of 2018 within a period of thirty days from the date of receipt of copy of this order.

23. In view of the above, W.P.(MD).No.19929 of 2015 stands dismissed, while, the connected writ petitions in W.P.(MD).Nos.23696 to 23698 of 2018 stand disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-III)

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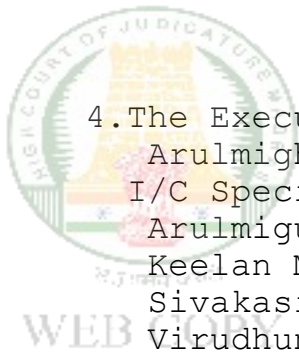
/ /2022

Sub Assistant Registrar(CS)

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To

- 1.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Virudhunagar Division, Virudhunagar.
- 2.The Special Officer/Executive Officer,
Arulmighu Senthatti Ayyanar Thirukoil,
Keelan Marainadu Village, Sivakasi Taluk,
Virudhunagar District.
Office at Arulmighu Viswanatha Samy Thirukoil,
Sivakasi.
- 3.The District Collector,
Virudhunagar,
Virudhunagar District.



4.The Executive Officer,
Arulmighu Vishavanatha Swamy Thirukovil,
I/C Special Officer,
Arulmigu Senthatti Ayyanar Thirukovil,
Keelan Marainadu Village,
Sivakasi Taluk,
Virudhunagar District.

+4 CC to M/s.P. MAHENDRAN, Advocate (SR-18077, 18078, 18222 & 18223
[F] dated 12/04/2022)

+3 CC to M/s.F.X.EUGENE, Advocate (SR-17560, 17561 & 17562[F]
dated 08/04/2022)

+1 CC to M/s.SPL.GP (SR-17831 & 17896[F] dated 11/04/2022)

W.P(MD).Nos.19929 of 2015
and 23696 to 23698 of 2018
08.04.2022

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