



W.P.(MD) No.28347 of 2022.

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.12.2022

CORAM

THE HONOURABLE MR.JUSTICE **K.KUMARESH BABU**

**W.P.(MD) No.28347 of 2022**  
**and**  
**W.M.P.(MD) No.22394 of 2022**

Muthuraj

... Petitioner

/vs./

1.The Joint Commissioner,  
Hindu Religious and Charitable Endowment Department,  
Elis Nagar,  
Madurai.

2.P.Esakki Muthu @ Ravi

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for records relating to the proceedings of the 1st respondent made in Na.Ka.No.2830/2022/Aa1 dated 07.12.2022 and quash the same in so far as the Writ petitioner.

|                |                                                       |
|----------------|-------------------------------------------------------|
| For Petitioner | : Mr.K.Govindaraja for<br>Mr.B.Ponnu Pandi            |
| For R1         | : Mr.T.Vilavankothai<br>Additional Government Pleader |
| For R2         | : Mr.P.Mahendran                                      |



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### **ORDER**

The order challenged in this writ petition is an order passed by the Joint Commissioner, Hindu Religious and Charitable Endowment Department, Elis Nagar, Madurai, directing the petitioner to hand over the key to the second respondent herein.

2.Heard Mr.K.Govindaraja, learned counsel for Mr.B.Ponnu Pandi, learned counsel for the petitioner, Mr.T.Vilavankothai, learned Additional Government Pleader for the first respondent and Mr.P.Mahendran, learned counsel for the second respondent.

3.The case of the petitioner is that the Arulmighu Ayyanar temple situated in Sathirapatti Village, Sattur Taluk, Virudhunagar District has been managed by his ancestors and as on today, the petitioner is managing the temple. To substantiate his claim that the petitioner's family is in management of the temple, he had produced an order of the settlement Tahsildar, dated 27.10.1966, wherein a settlement patta under the Madras Minor Inam Abolition Act, 1963 has been



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issued in favour of Arulmighu Ayyanar temple represented by the Manager for the time being Ramasamy Velar.

4. According to the petitioner, Ramasamy Velar is his grandfather. However, it is his case that the second respondent herein from the year 2019 is trying to interfere with his functioning of managing the temple on the ground that the Ayyanar temple is the sub-temple of Arulmighu Mariamman temple, to which the second respondent was appointed as a Hereditary Trustee.

5. The petitioner also contended that initially he had filed a suit in O.S.No. 34 of 2019 on the file of the District Munsif Court, Sattur seeking for various prayers as against the second respondent. He had also initiated proceedings under Section 63-B of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, in O.A.No.7 of 2022 before the Joint Commissioner, HR & CE Department, Madurai and the same is pending adjudication before him.

6. In the interregnum, the first respondent herein, by proceedings dated 07.12.2022, had directed the petitioner to hand over the keys to the second



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respondent herein on the ground that in respect of the land in S.No.10/2B, there has been mutation of revenue record in the name of the petitioner's family and that they were trying to usurp the lands belonging to the temple.

7.Mr.K.Govindaraja, learned counsel for Mr.B.Ponnu Pandi, learned counsel for the petitioner would vehemently contend that the second respondent is noway connected to the Ayyanar temple and he is only the Hereditary Trustee of the said Mariamman temple. Therefore, the order of the first respondent directing handing over of key to the second respondent is *per se* illegal and arbitrary. That apart, he would further contend that even in the year 1966, the statutory authority, namely the Special Tahsildar under the Madras Minor Inam Abolition Act, 1963 had recognized his grandfather as Manager of the said temple, according to him, the same has not been disputed by the respondents. Hence, he sought interference of this Court to set aside the impugned order.

8.Countering his arguments, Mr.P.Mahendran, learned counsel for the second respondent would submit that the Mariamman temple is situated at Sattur and has got 5 sub-temples. One of the sub-temples is this Ayyanar temple. To



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substantiate his submission, he had produced the records of the temple showing various properties held by the said Mariamman temple as approved by the HR & CE Department.

9.Further, he would rely upon the judgment of this Court in W.P.(MD) No. 11343 of 2019, in which an order has been passed permitting the second respondent herein to approach the HR & CE Department for recovering the keys of the temple from the petitioner herein and hence, he had approached the second respondent. According to him, the second respondent has conducted a thorough enquiry and had passed the present order. He would further contend that there is no infirmity in the order passed by the first respondent. He would further contend that the petitioner was appointed as Poojari of the Ayyanar temple and due to his activities, he has been removed from the service of the temple as early as in 2019. Only thereafter, the petitioner had instituted the suit before the District Munsif Court, Sattur.

10.He would further plead that the temple is situated in S.No.10/2B and the revenue records in respect of S.No.10/2B stand in the name of Ayyanar temple.



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But now, through the mutation of revenue records, the petitioner had obtained patta in the name of his grandfather, which is in violation of the settlement proceedings and therefore, he prayed that there is no interference that need to be ordered of the order impugned in this writ petition.

11.Mr.T.Vilavankothai, learned Additional Government Pleader for the first respondent would submit that thorough enquiry has been conducted. The petitioner and the second respondent were examined by the Inspector, HR & CE Department and he had submitted a report and only on the basis of the enquiry, the present order has been passed.

12.I have considered the rival submissions made by the learned counsel on either side.

13.At the outset, a perusal of the impugned order would show that the first respondent was aware of the fact that the settlement patta has been issued in favour of Ramasamy Velar, who is the grandfather of the petitioner. Such patta would be valid, till the services are provided by the said Ramasamy Velar. It is not



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the case of either the first respondent or the second respondent that the services of the said Ramasamy Valar or his family members have not been available to the temple. Even though the same is disputed by the learned counsel for the second respondent, the second respondent had not produced any materials before this Court to substantiate that the second respondent had been in management of the temple.

14.Further, when a statutory authority, namely the Special Tahsildar even as early as in the year 1966 has granted patta under Section 8(2)(ii) r/w Section 8(5) of the Madras Minor Inam Abolition Act, 1963, in respect of S.No.109, the name of the pattadhar was the Ayyanar temple Manager for the time being, Ramasamy Valar. This would substantiate that during the year 1966 and prior to that, one Ramasamy Velar was the Manager of the temple. When such a patta in S.No.109 has been granted in that style, it would only lead to the presumption that the said Ramasamy Velar was the Manager of the Ayyanar temple situated at Sathirapatti Village, Sattur Taluk, Virudhunagar District. Further, if the claim of the second respondent is correct, then patta would have been issued in the name of the



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Manager of Mariamman Temple as it is who, according to second respondent, is also controlling the Ayyanar Temple as its sub-temple.

15.Further, in the light of the fact that the second respondent even though had been appointed as a Hereditary Trustee for the Mariamman temple, there is no document produced before this Court to substantiate that the said Mariamman temple was in management of this Ayyanar temple as its sub-temple. The land registers produced by the learned counsel for the second respondent are all subject to evidence, which under Article 226 of the Constitution of India cannot be entertained by this Court. The first respondent also in the impugned order had not given any finding that this Ayyanar temple was the sub-temple of the Mariamman temple to be under the control of the Hereditary Trustee, namely the second respondent herein. Further, even in the impugned order, the first respondent has relied upon the statement recorded by the Inspector, HR & CE Department. He independently seems to have conducted an enquiry.

16.In the light of the above findings, I find that the impugned order passed by the first respondent is wholly arbitrary and the only reason assigned by it that



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there has been mutation of revenue records in the name of the family of the petitioner, which in my opinion, is also not correct. Since the patta issued by the Head Quarters, Deputy Tahsildar, Sattur, which has been downloaded from the computer on 31.07.2014, would show the name of the pattadhar as Ramasamy Valar, Ayyanar Kovil Trustee, I am inclined to interfere with the order impugned in this writ petition.

17.Hence, the order impugned in this writ petition is set aside and the issue is remanded back to the first respondent. The first respondent is directed to enquire the application made by the second respondent along with the application made by the petitioner in O.A.No.7 of 2022 under Section 63-B of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, after following due process of law and pass appropriate orders within a period of six months from the date of receipt of a copy of this order. It is open to the petitioner and the second respondent to make any further pleadings as may be required. The first respondent may independently decide the issue based on the materials placed before it and shall not be influenced by the findings given in this order.



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18. With the above directions, the Writ Petition is allowed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Speaking : Yes / No  
Internet : Yes / No  
Index : Yes / No  
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**16.12.2022**

To

The Joint Commissioner,  
Hindu Religious and Charitable Endowment Department,  
Elis Nagar,  
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**K.KUMARESH BABU, J.**

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