



Writ Petition No.8991 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :18.07.2023

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

Writ Petition No.8991 of 2023
and W.M.P.No.9110 of 2023

G.M.Dakshinamoorthy

...Petitioner

Vs

1. The Secretary to Government,
Department of Tamil Development Culture,
Tourism and Religious Endowments,
Fort St.George, Chennai – 600 009.

2.The Commissioner,
Hindu Religious and Charitable Endowments,
Admn. Department,
Nungambakkam High Road,
Chennai – 600 034.

3.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Perundurai Road, Erode.

4.Arulmighu Mariamman Temple,
rep by its Fit Person,
S.Ganapathipalayam, Soundapur,
Gobichettipalayam Taluk,
Erode District.



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5.Dr.Mariappan

6.The Inspector General of Police,
Idol Theft Wing CID,
Old SIPCOT Building,
Industrial Estate,
Guindy, Chennai – 600 032.

... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in Se.Mu.Pa.Mu.No.63532/2022/Q2, dated 23.11.2022, quash the same and consequently forbear the respondents from in any manner constructing Arulmighu Mariamman Thirukovil, S.Ganapathipalayam. Soundapur, Gobichettipalayam Taluk, Erode District and with a further direction to the 6rh respondent herein to recover the idol of Arulmighu Mariamman Thirukovil.

For Petitioner : Mr.T.S.Vijaya Raghavan

For Respondent : Mr.S.Yaswanth
Additional Government Pleader
(HR & CE)
for R1 and R4



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ORDER

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The writ petition is filed challenging the order passed by the 2nd respondent dated 23.11.2022, granting administrative as well as technical sanction for construction of Arulmighu Mariamman Thirukovil, S.Ganapathipalayam, Soundapur, Gobichettipalayam Taluk, Erode District and also for direction to the 6th respondent to recover the idol of Arulmighu Mariamman.

2. According to the petitioner, Arulmighu Mariamman Thirukovil, S.Ganapathipalayam, Soundapur, Gobichettipalayam Taluk, is an ancient temple and the petitioner has got Hereditary Trustee right to management.

3. The 2nd respondent in the impugned proceedings by accepting the recommendations of 3rd respondent granted administrative as well as technical sanction for construction of new Arthamandapam, Garbhagraham and Maha Mandapam in the above said temple. The said order is challenged by the petitioner by filing this writ petition.



4. The learned counsel appearing for the petitioner submitted that the impugned order is clear violation of Rule 53 of Management and Preservations of Properties of Religious Institutions Rules, 1964 as no Tiruppani Committee had been formed for renovation of the temple. The learned counsel further submitted that the construction of the temple cannot be proceeded without the idol of the presiding deity and the same is against Agamas. It is also stated by the learned counsel that there was a suyambu idol in the sanctum sanctorum in front of the main presiding deity and the same is missing. The respondents have not taken any steps to retrieve the idol.

5. The 4th respondent is a fit person of the temple and he filed a counter affidavit wherein it is specifically stated that the construction of Arthamandapam, Garbagraham and Mahamandapam are being carried out as donor work from three persons and therefore, there is no need for Constitution of Tiruppani Committee as required under Rule 53 of Management and Preservations of Properties of Religious Institutions Rules, 1964. It is further stated in the counter, the main presiding idol of the temple (Moolavar) got damaged during renovation work and the



damaged idol is kept in the strong room of Arulmighu Subramaniaswamy
Thirukoil, Pachaimalai.

6. As far as the first contention raised by the learned counsel for the petitioner is concerned Rule 53 of Management and Preservations of Properties of Religious Institutions Rules, 1964, reads as follows:

“Formation of Thiruppani Committees. - In the case of temples requiring renovation or "Thiruppani" works and in need of donations from the public, Thiruppani Committee shall be formed for each such temple for the purpose.”

7. A reading of above Rule would make it clear in cases, where the renovation of the temple is carried out by collecting donation from the general public, a Tiruppani Committee shall be formed. In the case on hand, it is the specific case of the 4th respondent that the construction of the above mentioned structures in the temple are being carried out as donor work but not out of money collected from the general public. When, 4th respondent identified donors to construct specific structures in the temple, there is no need to collect donation from the general public and consequently Rule 53 relied by the petitioner is not attracted.



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8. The execution of any building work in the temple by donor is permitted by Rules 11, 12 and 13 of Management and Preservation of Properties of Religious Institution Rules. The Rules 11, 12 and 13 of Management and Preservation of Properties of Religious Institution Rules, read as follows:

11. Execution of building works by worshipper or other person. - Whenever a worshiper or other person offers to donate the cost of or to execute any building works, the trustee shall obtain from him details of his proposals and if he proposes to undertake the works himself, a statement showing the manner in which the necessary finances for the execution of works will be made available and the time within which the construction will be completed and forward the details or statement, as the case may be, to the appropriate authority with his remarks whether the said offer maybe accepted and, if so, on what conditions.



12. Submission of plans and estimates to appropriate authority. - (1) On the appropriate authority approving the proposal of the trustee to execute the works from the funds of the institution, the trustee shall prepare detailed estimates for the works proposed, make provision in the budget of the proposed expenditure and submit the estimate along with plans to the appropriate authority.

(2) When the appropriate authority approves the trustee's proposal to allow a worshipper or other person to execute any building work and settles the conditions on which such permission may be granted, the trustee shall obtain from such worshipper or other person, detailed plans and estimates for the works proposed and submit them to the appropriate authority with his remarks.

13. Sanction of plans by appropriate authority. - (1) The appropriate authority may sanction the plans and estimates submitted under rule 12 with such modifications and subject to such conditions, as it may



deem fit and where the cost of the construction is to be met from the funds of the institution, sanction the necessary expenditure.

(2) The appropriate authority may decide whether the building work is to be made departmental! or through contractors.

9. The reading of the above rules would make it clear in cases, where execution of any building work in a temple is done as a donor work, formation of Tiruppani Committee under Rule 53 is not required. The formation of Tiruppani Committee need to be followed only if following two conditions are satisfied:

- (a) Temple requires renovation;
- (b) For such renovation work, the temple is in need of donation from public.

10. In the case on hand, the second condition “ the temple in need of donation from public” is not satisfied, as three worshipers undertook to finance the construction of Garbagraham, Arthamandapam and



Mahamandapam of the temple. Therefore, by following Rules 11, 12 and 13 as mentioned above, the sanction of the appropriate authority namely the Commissioner was sought for and by impugned order, he granted permission subject to various conditions.

11. A reading of impugned order would suggest that the 2nd respondent imposed as many as 17 conditions to see that the proposed construction is made as per the above said rules. Therefore, the legal submission made by the learned counsel for the petitioner that non formation of Tiruppani Committee vitiates the impugned order is rejected.

12. As far as the second contention raised by the learned counsel for the petitioner that the main idol of the temple is missing and without retrieving the main idol, consecration of the temple cannot be proceeded. It is stated by the 4th respondent in his counter that the main presiding deity's idol is very much available in the strong room of Arulmighu Subramaniaswamy Thirukoil, Pachaimalai. It is also stated that during renovation work, the main idol got damaged and therefore, it is removed and kept in a strong room. In such case, it is for the respondent to



take appropriate decision to install a new idol identical to the old one by following necessary rituals.

13. The learned counsel for the petitioner further submitted that there was a suyambu idol in sanctum sanctorum in front of the main presiding deity in the sanctum sanctorum and the same is found missing.

14. The learned Government Advocate appearing for the respondents 1 to 4 submits that the Suyambu idol is also available and the same will be installed in sanctum sanctorum in front of the main deity at the time of consecration ceremony.

15. The learned counsel further submitted that Suyambu idol available in the temple is a stone piece and it cannot be treated as Suyambu idol in strict sense. As far as the missing of Suyambu idol said to have been available in the sanctum sanctorum, it is always open to the writ petitioner to explore the other remedies available under law.



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16. In view of the discussions made earlier, I do not find any ground to interfere with the impugned order passed by the 2nd respondent.

Accordingly, the writ petition is dismissed with the above said observations.

No costs. Consequently, connected miscellaneous petition is closed.

18.07.2023

Index : Yes/No

Speaking order: Yes/No

Neutral citation: Yes/No

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