



Writ Petition No.11169 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Writ Petition No.11169 of 2023

and

W.M.P.Nos.11027 & 11028 of 2023

C.Shanmugaraj
S/o.Chinnasamy Gounder

... Petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Nungambakkam, Chennai - 600 034.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Tirupur District.

3.The Executive Officer,
Arulmigu Selva Kumara Swamy Temple,
Chinnamuthur,
Kangeyam Circle, Tirupur District.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the entire records relating to the impugned proceedings of the second respondent in Se.Mu.Na.Ka.No.680/2023-2/A5 dated 27.03.2023 and quash the same and consequently, direct the respondents to install the Kodimaram provided by the petitioner, which is lying in the temple premises.

For Petitioner : Mr.M.Sriram

For Respondents : Mr.R.Shunmugasundaram,
Advocate General
assisted by Mr.N.R.R.Arun Natarajan
Special Government Pleader

ORDER

This writ petition has been filed challenging the proceedings of the second respondent in Se.Mu.Na.Ka.No.680/2023-2/A5, dated 27.03.2023 and for a consequential direction to the respondents to install the Kodimaram that was made ready by the petitioner, which is already lying in the temple premises.

2. Heard Mr.M.Sriram, learned counsel for petitioner and



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Mr.R.Shunmugasundaram, learned Advocate General, assisted by

Mr.N.R.R.Arun Natarajan, learned Special Government Pleader.

3. The case of the petitioner is that Kumbabhishekam was celebrated during the year 2020 at Arulmigu Selva Kumara Swamy temple and at the time of renovation of the temple, it was found that the Kodimaram (Dwajasthampam) is damaged and it was suggested to replace the same. The petitioner, who claims to be a donor and patron offered to erect a new Kodimaram by replacing the old one. The second respondent through letter dated 20.11.2021 accorded administrative sanction and passed an order by treating the petitioner as donor and the total estimate for erecting the new kodimaram was fixed at Rs.7,00,000/-. The said order also contained certain conditions to be followed by the donor while executing the work. According to the petitioner, the opinion of the Sthapathi was also obtained and all steps were taken to make the Kodimaram ready and to install the same in the temple.

4. The grievance of the petitioner is that the third respondent through



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communication dated 27.02.2023 informed the petitioner that the Kodimaram that was given by the petitioner was found to be defective and there was also an opinion expressed by certain section of people to the effect that the kodimaram that was sponsored by the petitioner should not be used. The petitioner received a notice dated 16.03.2023 from the second respondent calling him to attend an enquiry. The petitioner attended the enquiry and it was thereafter posted to 29.03.2023. While so, the second respondent in a hasty manner had issued the impugned proceedings dated 27.03.2023 and cancelled the earlier permission given to the petitioner to act as the donor for erecting the Kodimaram and directions have been given to start a fresh process to get a new Kodimaram to be installed in the temple. Aggrieved by the same, the present writ petition has been filed before this Court.

5. Learned counsel for petitioner submitted that there was absolutely no fault or damage in the Kodimaram and the process was going on in a smooth manner and there was some interference from somewhere which



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resulted in the second respondent passing the impugned order dated 27.03.2023 in a hasty manner. Learned counsel submitted that the hastiness with which the second respondent passed the order will be evident from the fact that enquiry was fixed only on 29.03.2023 and whereas the second respondent passed the order on 27.03.2023 itself. Learned counsel further submitted that even if the kodimaram that was given by the petitioner is not acceptable, the petitioner is prepared to incur the entire expenses and costs and the HR and CE department itself can choose the Kodimaran and erect the same in the temple. Learned counsel submitted that ultimately the petitioner wants the kodimaram to be properly erected in the temple and for that the petitioner is willing to incur the entire costs.

6. *Per contra*, Mr.R.Shanmugasundaram, learned Advocate General appearing on behalf of the HR & CE department, submitted that the work of erecting a new Kodimaram has already been started through proceedings of the Joint Commissioner, Tirupur, dated 31.03.2023 and it has been given in favour of one Kuppusamy and the costs for erection of the Kodimaram is



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estimated at Rs.8,85,000/-. Learned Advocate General submitted that the Kodimaram will be erected after getting necessary opinion from the Sthapathi and that the petitioner does not have any legal right to insist that the Kodimaram must be erected only at his cost. Therefore, learned Advocate General sought for the dismissal of the writ petition.

7. A Constitutional Court exercising its jurisdiction under Article 226 of the Constitution of India has been given extraordinary powers to ensure that a valuable right is safeguarded and justice prevails. The last thing issue into which a Constitutional Court wants to get into is erection of a Kodimaram. The petitioner does not have a legal right to insist that only he will either erect the Kodimaram or he will be the donor for erection of the Kodimaram. It is an exercise to be carried out by the HR & CE department in accordance with certain agama rules and beliefs, which are in existence. The HR & CE department found that the Kodimaram that was given by the petitioner was not fulfilling certain requirements and hence, they had gone ahead with an alternative proposal and asked some other person to give the



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Kodimaram to be erected in the temple. These are matters which are based on certain beliefs. This Court should not go into the nitty gritty of erection of Kodimaram while exercising its jurisdiction under Article 226 of the Constitution of India. If the petitioner is insisting for issuance of a writ of mandamus, the fundamental requirement would be for the petitioner to establish his legal right and also that there is a corresponding duty on the part of the department. In the absence of the same, a writ of mandamus cannot be issued by this Court.

8. On going through the records and after hearing the submissions made on either side, it is quite apparent that the present case involves more than what meets the eye. The dispute seems to be not with regard to erection of Kodimaram but it is more a show of power between certain individuals to erect the Kodimaram and establish their name for posturing. This Court does not want to waste its time and exercise its jurisdiction in a dispute of this nature.



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N. ANAND VENKATESH, J

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In the light of the above discussion, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

12.04.2023

Index : Yes/No
Speaking Order / Non Speaking Order
Neutral Citation: Yes/No
gm

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