



W.P.No.13252 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2023

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THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.13252 of 2023

and

W.M.P.No.12968 of 2023

K.Dhivya

... Petitioner

Vs.

1.The Executive Officer,
Sri Thirsoolanathar Temple,
Tirusulam,
Chennai – 600 043.

2. The Joint Commissioner,
Hindu Religious & Charitable Endowments,
11/20, Thangavelu Street,
(Near Rangaswamy Kulam),
Kanchipuram - 531 502

3.The Commissioner
Hindu Religious & Charitable Endowments
119, Uthamar Gandhi Salai,
Nungambakkam, Chennai – 600 034.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to
issue a Writ of certiorari, calling for the records of the executive officer, Sri
Thirusoolanathar Temple relating to notice dated 14.02.2023 and quash the



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same.

For Petitioner : Mr.K.Rajasekaran

For Respondents : Mr.K.Karthikeyan
Government Advocate (HR & CE)

ORDER

The petitioner herein has come up with this writ petition challenging the order passed by the first respondent directing the petitioner to handover the portion of the premises being part of Sri Thirsoolanathar Temple, Tirusulam, Chennai.

2. The learned counsel appearing for the petitioner submitted that a volunteering group identified as “Sri Thirupurasundari Sri Thirusoolanathar Devotees Association” is doing service in the temple by conducting specific pooja activities with the consent and co-operation of the Hindu Religious and Charitable Endowments Department. Accordingly, the said group was using two rooms measuring 80 sq.ft. and 120 sq.ft for the purpose of doing pooja services.

3. During 'Mahashivarathri' celebrations, on February 2023, the



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petitioner approached the first respondent to do certain services in the temple and sought for his co-operation. However, the first respondent asked the petitioner to handover the keys of the rooms and leave the temple. In these circumstances, the petitioner received a notice addressed to Mr.Kapaleeswaran dated 14.02.2023 directing him to vacate the two rooms in the temple premises. In the said communication, it was also stated that if he fails to vacate the premises, action will be taken for eviction by treating him as encroacher. Aggrieved by the same, this writ petition has been filed.

4. The learned counsel for the petitioner has assailed the impugned communication on the ground that the first respondent has no jurisdiction to evict any person in occupation of the temple premises treating them as encroacher. If at all it is for the first respondent to move the jurisdictional Joint Commissioner, HR & CE namely the second respondent for such action.

5. It is further submitted by the learned counsel for the petitioner that pursuant to the impugned communication of the first respondent, the rooms that were in occupation of the Association concerned was locked by the first respondent and when the same was brought to the notice of this Court, the



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petitioner was directed to give representation to the second respondent and in pursuance of the said direction, a representation was submitted to the second respondent on 12.06.2023 by the petitioner requesting him to permit the above mentioned Association to continue the service rendered by them in the temple and also permit them to occupy the two rooms which had been in the occupation of the Association. The said representation has not been considered till date.

6. The learned Government Advocate appearing for the respondents by taking this Court to the counter affidavit filed by the first respondent submitted that the Association referred to by the petitioner is a defunct Association and therefore, the representation for doing service in the name of defunct Association cannot be considered.

7. A reading of the impugned notice would show that the first respondent issued a notice to one Mr.Kapaleeswaran directing him to hand over the possession of the two rooms in his possession to the temple and the impugned communication further stated that if he failed to hand over the possession of two rooms in the temple then further action would be initiated



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against him for taking possession in accordance with law.

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8. It is stated by the learned counsel for the petitioner that in pursuance of the impugned communication, the rooms were locked by the first respondent and therefore, their right to perform pooja service to the temple was affected. In this regard, the petitioner also submitted a representation to the second respondent on 12.06.2023 requesting him to permit the Association to continue to do services with a right to occupy two rooms in the temple premises.

9. The present writ petition has not been filed by said Kapaleeswaran to whom impugned notice was issued; likewise, the present writ petition has not been filed by the “Sri Thirupurasundari Sri Thirusoolanathar Devotees Association” which is said to have had right to perform certain services in the temple. The petitioner, claiming herself as member of the said Association has come up with this writ petition. If Association referred to by the petitioner has any right to perform service to the deity in the temple, it is for the said Association to file appropriate application before the second respondent under Section 63 of the HR & CE Act and establish the said Association's right and this Court sitting in a Writ Jurisdiction cannot go into the question “Whether



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the petitioner is entitled to perform services to the deity by custom or usage”.

Therefore, if any application is filed by the petitioner or the Association concerned to establish their right to perform any service to the deity under Section 63 of the HR & CE Act, the same shall be considered and disposed of in accordance with law by the second respondent.

10. It is also seen that the petitioner already submitted a representation on 12.06.2023 to the second respondent requesting him to permit continuation of service to the deity and also occupation of the two rooms locked by the first respondent. The said representation has not been considered by the second respondent till date. The second respondent is directed to consider the representation of the petitioner dated 12.06.2023 and pass final orders on merits and in accordance with law after affording sufficient opportunities to the petitioner within a period of eight weeks from the date of receipt of a copy of this order.

11. With the above direction, this Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is also closed.



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Index : Yes/No
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Neutral Citation Case: Yes/No

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S.SOUNTHAR, J.

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