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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.18068 of 2023

and

W.M.P.Nos.17246, 17248 & 17250 of 2023

1.M.Saminathan

2.T.Ramaraj

3.K.Muralidharan

4.K.Subramaniyan

5.N.Bharathiraja

6.V.Muthukumar

7.T.Aruljothivel

8.B.Radhamani

9.R.Shanmugham

10.M.Sivakumar

... Petitioners

vs.

1 The Assistant Commissioner
Hindu Religious & Charitable Endowments
Admn. Department
Coimbatore.



2 Arulmigu Jakalamman Temple
Arulmigu Chinnamuthaiyasami Temple
Arulmigu Bommarayar Temple
Rep. herein by its fit person
having office at Sri Aiyappaswamy Temple
Pollachi.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records relating to the proceedings of the 1st Respondent dated 01.12.2022 made in Na.Ka.No.1918/2015/A6, appointing the 2nd Respondent as the Fit Person for Jakkammal, Chinnamuthiyasami, Boommarayar Temples, Koolanaikenpatti Village, Pollachi Taluk, Coimbatore District, quash the same.

For Petitioners : Mr.T.S.Vijaya Raghavan
For Respondents : Mr.N.R.R.Arun Natarajan
Special Government Pleader

ORDER

This writ petition has been filed challenging the proceedings of the 1st respondent in Na.Ka.1918/2015/A6 dated 01.12.2022 appointing the 2nd respondent as the fit person for Jakkammal, Chinnamuthiyasami, Bommarayar Temples, Koolanaikenpatti Village, Pollachi Taluk, Coimbatore District.



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2. The case of the petitioners is that they are the descendants of the original Palayakarars, who belong to the community of Veerapandiya Kattabomman and they have been worshipping and maintaining the subject temple from time immemorial. The further case of the petitioners is that 29 families belonging to the particular temple living in a concerned village alone worship the deities in the temple. According to the petitioners, the subject temple is an endowment wherein the lands were enjoyed by the ancestors of their community and therefore, the department does not have any right to take over the administration and management of the temple.

3. The grievance of the petitioners is that the 1st respondent straight away went ahead and passed the impugned order appointing the 2nd respondent as the fit person. According to the petitioners, this was done even without hearing the interested persons and without following the proper procedure under Section 49 of the Tamil

Nadu Hindu Religious and Charitable Endowments Act, 1959



(hereinafter called as the “Act”). Aggrieved by the same, the present writ petition has been filed before this Court.

4. Heard Mr.T.S.Vijaya Raghavan, learned counsel for the petitioners and Mr.N.R.R.Arun Natarajan, learned Special Government Pleader appearing on behalf of respondents.

5. In the considered view of this Court, the petitioners have already approached the Civil Court and filed a suit to declare that their community is a separate denomination and that the temple in question is a denominational temple as contemplated under Article 26(c) of the Constitution of India. They have also sought for the relief of permanent injunction restraining the department from interfering with the management and administration of the temple and its properties. Even in the plaint, there is a specific mention made to the effect that the fit person was appointed without any communication from the department and this was also one of the reason as to why the suit was filed before the Competent Civil Court.



6. The petitioners having consciously taken the decision to move a suit before the competent Civil Court seeking for the relief of declaration and permanent injunction, cannot be permitted to approach this Court to challenge the appointment of the fit person. The appointment of the fit person is also one of the grievance that has been projected in the pleadings and the said issue cannot be separately extricated from the main issue and dealt with in this writ petition. The petitioners will have to necessarily agitate their grievance only before the Civil Court. A writ petition cannot be maintained for the sake of getting an interim order, when the main issue is pending before the Civil Court.

7. In the light of the above discussion, this Court is not inclined to exercise its discretion and entertain this writ petition. It will be left open to the petitioner to agitate their grievance in the pending Civil suit and it goes without saying that apart from other issues, the appointment of a fit person can also be raised as an issue before the Civil Court.



8. In the result, this writ petition stands dismissed. No costs.

Consequently, the connected miscellaneous petitions are closed.

20.06.2023

Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation Case : Yes/No

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N. ANAND VENKATESH, J.
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