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W.P.No.20724 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :09.08.2023

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THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.20724 of 2023 and
W.M.P No. 20089 & 20090 of 2023

J. Annamalai

...Petitioner

Vs.

- 1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
119, Uthamar Gandhi Salai,
Nungambakkam, Chennai – 600 034.
- 2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Collectorate Campus, Villupuram,
Villupuram District
- 3.The Assistant Commissioner
Hindu Religious and Charitable Endowments Department,
Collectorate Campus, Villupuram,
Villupuram District.
4. The Executive Officer,
Arulmighu Lakshmi Narasimhasamy Thirukoil,
Parikkal Village, Ulundurpet Taluk,
Villupuram District.

..Respondents.



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order issued by the Third Respondent in Na.Ka.No. 2544/2019/B2 dated 10.07.2023 and quash the same and forbear the respondents from interfering with the affairs of the Villupuram Vallalar Arul Maligai, Samarasa Sutha Sanmarka Sathya Trust, having office at No. 265/770, Nehruji Salai (East), Villupuram, 605 602 and its properties till the exhaustion of legal remedies provided under the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 by the Petitioner.

For Petitioner : Mr.J. LakshmiNarayanan

For Respondents : Mr.N.R.R. Arun Natarajan
Special Government Pleader (HR&CE)

ORDER

The Writ petition is filed challenging the communication of the 3rd Respondent addressed to Special Tahsildar (Temple Lands), Hindu Religious and Charitable Endowments, Villupuram, appointing him as Special Officer to make arrangements to enable 4th respondent to assume charge as fit person of petitioner's institution.



2. According to the petitioner, he is a managing trustee of Villupuram Vallalar Arul Maligai, Samarasa Sutha Sanmarka Sathya Trust. The petitioner Trust filed original application under Section 63(a) of HR & CE Act seeking declaration that petitioner institution is not a religious institution as defined under Section 6(18) of the HR & CE Act in O.A.No.1 of 2021. The said OA was dismissed by the 2nd respondent on 03.07.2023 and the same was communicated to the petitioner on 06.07.2023. The petitioner also filed an appeal challenging the order before the 1st respondent. The appeal by the petitioner is said to have been filed on 02.08.2023.

3. The learned counsel for the petitioner submits that even before expiry of the time limit for filing appeal, the 3rd respondent issued a communication to Special Tahsildar (Temple lands) to take possession of petitioner institution. The learned counsel submitted that the impugned communication issued by the 3rd respondent is unreasonable and liable to be quashed as it is passed even before the expiry of the time limit prescribed under HR & CE act.



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4. Mr.N.R.R. Arun Natarajan, learned Special Government Pleader (HR&CE) appearing for the respondents submitted that the 4th respondent had taken charge of the petitioner institution as a fit person on 11.07.2023.

5. The learned counsel for the petitioner by relying the judgment of this Court in ***Sri Ram Samaj Vs The Commissioner, HR & CE, Chennai and others*** in W.A.No.1057 of 2022 and judgment of this Court in the case of ***R.Shanmuga Sundaram Vs The Commissioner, Hindu Religious and Charitable Endowments and others*** reported in ***1991 (2) MLJ 582*** submitted that respondents are not entitled to appoint a fit person and take over the control of the petitioner institution without deciding the character of the institution.

6. Admittedly, in the case on hand, the petitioner filed original application before the 2nd respondent under Section 63(a) of HR & CE Act seeking declaration that petitioner institution is not an Hindu Religious Institution as defined under Section 6(18) of the HR & CE Act or a temple as



defined under 6 (20) of HR & CE Act. The said application was dismissed by the 2nd respondent after enquiry. Therefore, the original authority namely the 2nd respondent has decided the character of the petitioner institution. In such circumstances, the submission made by the learned counsel for the petitioner based on the above said case laws are not applicable to the facts of the present case.

7. It is seen from the counter affidavit filed by the 4th respondent, he has taken charge as a fit person of the petitioner institution on 11.07.2023. In such circumstances, the prayer sought for in this writ petition seeking quashment of the communication of the 3rd respondent dated 10.07.2023 directing the Special Tahsildar (Temple Lands) to take steps to take possession of the petitioner institution cannot be entertained. However, this Court is inclined to issue a direction to the 1st respondent to dispose of the appeal said to have been filed by the petitioner on 02.08.2023 challenging the order passed by the 2nd respondent in O.A.No.1 of 2021 as expeditiously as possible preferably within a period of three months from the date of receipt of a copy of this order. The learned counsel for the petitioner submitted that 4th respondent may be directed



to hand over possession of the institution to the petitioner pending disposal of appeal before 1st respondent. The said request of the petitioner cannot be entertained by this Court as 1st respondent seized up the matter. However, the petitioner is permitted to move application for appropriate interim relief before 1st respondent before whom Appeal is pending. If any such interim application is filed by petitioner, the same shall be decided on its own merits within three weeks from the date of filing of such petition.

8. In view of the fact that the character of the petitioner institution is not finally decided, the 4th respondent shall not take any major policy decision involving financial outflow and the respondents are directed to maintain *status quo* till the disposal of interim application by the 1st respondent. However, it is open to the 4th respondent to conduct the *Annathanam* which had been conducted by the petitioner till assumption of charge by the 4th respondent.

9. The learned Special Government Pleader appearing for the respondent by taking this Court to screenshots of the whatsapp messages said to have been sent by the petitioner inviting donations for conducting



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Annathanam on behalf of the religious institutions submitted that the petitioner should also maintain the *status quo*.

10. In view of the said submission, both the parties are directed to maintain *status quo* till the disposal of interim application by the 1st respondent. The interim application, if any, filed before the 1st respondent in pending Appeal, shall be decided by him on its own merits.

11. With the above observations, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

09.08.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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S.SOUNTHAR, J.

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To

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