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W.P.Nos.18838,18845, & 18849 of 2020;
W.P.Nos.1753, 2894 & 9797 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 22.02.2023

Pronounced on : **30.03.2023**

CORAM :

THE HON'BLE MR. T. RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE D. BHARATHA CHAKRAVARTHY

W.P.Nos.18838,18845, & 18849 of 2020;

W.P.Nos.1753, 2894 & 9797 of 2021

and

W.M.P.Nos.23414, 23415, 23418 of 2020;

3240, 3239, 10422 of 2021;

10423, 2414, 2409 of 2023

In W.P.No.18838 of 2020:

Rangarajan Narasimhan

... Petitioner

Versus

1.The Addl.Chief Secretary to Govt.,
Govt. of Tamil Nadu,
Chennai – 600 009.

2.The Secretary,
Department of Tourism, Culture and Religious Endowments,
Secretariat, Chennai – 600 009.



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- 3.The Secretary,
Public Works Department,
Secretariat, Chennai – 600 009.
- 4.The Commissioner,
Hindu Religious and Charitable Endowments Department,
119, Uthamar Gandhi Salai, Nungambakkam,
Chennai – 600 034.
- 5.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Villupuram.
- 6.The Executive Officer,
Sri Ardhanareswarar Temple,
Veeracholapuram,
Kallakurichi.
- 7.The Engineer-in-Chief/Superintending Engineer,
Public Works Department,
Kamarajar Promenade, PWD Estate,
Chepauk, Triplicane,
Chennai – 600 005.
- 8.The Secretary,
Department of Revenue, and Disaster Management Department,
Secretariat, Chennai – 600 009.
- 9.The District Collector,
Kallakurichi District,
Tamil Nadu.



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10.The Superintendent Archaeologist,
The Archaeological Survey of India,
Chennai Circle,
Fort St.George, Chennai – 600 009.

11.S.Deiveegan
[R-11, impleaded vide order dated 29.01.2021
in WMP.No.2231/2021in WP.No.18838/2020]

12.M/s. P.S.T Engineering Construction,
By its Managing Partner, Dr.V.S.Thennarasu, Contractor,
PWD, Kolaram Post, Parmathi Velur Taluk,
Namakkal District.
[R-12, impleaded vide order dated 23.01.2023 made in
WMP.No.1101/2023 in W.P.No.18838/2020]

13.Elephant G.Rajendran, Advocate.

[R-13, impleaded vide order dated 22.02.2023 made in
WMP.No.2409/2023 in W.P.No.18838/2020] ... Respondents

In W.P.No.2894 of 2021:

A.Baskar

... Petitioner

Versus

1.The Chief Secretary to Government,
Government of Tamil Nadu,
Secretariat, Fort St.George,
Chennai – 600 009.

2.The Additional Chief Secretary,
Department of Tourism, Culture and Religious Department,
Secretariat, Fort St.George,
Chennai – 600 009.



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- 3.The Secretary,
Public Works Department,
Secretariat, Fort St.George,
Chennai – 600 009.
 - 4.The Engineer-in-Chief/Superintending Engineer,
Public Works Department,
PWD Estate, Ezhilagam,
Chepauk, Chennai – 600 005.
 - 5.The Commissioner,
Hindu Religious and Charitable Endowments Department,
119, Uthamar Gandhi Salai,
Nungambakkam, Chennai – 600 034.
 - 6.The District Collector of
Kallakurichi District,
Kallakurichi.
 - 7.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Villupuram.
 - 8.The Executive Engineer,
Sri Ardhanareeswarar Temple,
Veeracholapuram,
Kallakurichi.
 - 9.The Deputy Divisional Engineer,
Public Works Department,
Kallakurichi.
- ... Respondents



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In W.P.No.1753 of 2021:

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S.Deiveegan

... Petitioner

Versus

1.The Government of Tamil Nadu,
represented by The Additional Chief Secretary to Government,
Revenue Department, Secretariat, Chennai – 600 009.

2.The Additional Chief Secretary to Government,
Tourism, Culture and Endowments Department,
Secretariat, Chennai – 600 009.

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

4.The Collector,
Kallakurichi District,
Kallakurichi.

5.The Executive Officer,
Arulmighu Arthanareeswarar Temple,
Having Office at
Arulmighu Thillai Govindaraja Perumal Thirukoil,
Kallakurichi, Kallakurichi District.

... Respondents

In W.P.No.9797 of 2021:

Kallakurichi District Makkal Nalasangam
(Reg.No.150 / 2019),
Registered under the Tamil Nadu Societies
Registration Act, 1975 (Tamil Nadu Act 27 of 1975)



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Rep-by President, J.Harun Rasheeth,
S/o. S.JohnBasha,
Office at No.35A/30A, Naduthakka,
Kallakurichi – 606 202.
Kallakurichi District.

... Petitioner

Versus

- 1.The Chief Secretary,
Government of Tamil Nadu,
Secretariat, Fort St.George,
Chennai – 600 009.
- 2.The Principal Secretary/Commissioner of Revenue Administration,
Administration,
Chepauk,
Chennai – 600 005.
- 3.The Secretary,
Revenue & Disaster Management Department,
Secretariat, Fort St.George,
Chennai – 600 009.
- 4.The Secretary,
Tourism, Culture & Religious Endowments Department,
Secretariat, Fort St.George,
Chennai – 600 009.
- 5.The Commissioner,
Hindu Religious & Charitable Endowments Board Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai – 600 034.



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6.The District Collector,
Kallakurichi District,
Kallakurichi.

7.M/s.P.S.T.Engineering Construction,
By its Managing Partner, Dr.V.S.Thennarasu, Contractor,
PWD, Kolaram post, Paramathi Velur Taluk,
Namakkal District. ... Respondents
[R-7, impleaded vide order dated 23.01.2023 made in WMP.No.584/2023
in W.P.No.9797/2021]

In W.P.Nos.18849 & 18845 of 2020:

Rangarajan Narasimhan

... Petitioner

Versus

1.The Addl.Chief Secretary to Govt.,
Govt. of Tamil Nadu,
Chennai – 600 009.

2.The Secretary,
Department of Tourism, Culture and Religious Endowments,
Secretariat, Chennai – 600 009.

3.The Secretary,
Public Works Department,
Secretariat, Chennai – 600 009.

4.The Commissioner,
Hindu Religious and Charitable Endowments Department,
119, Uthamar Gandhi Salai, Nungambakkam,
Chennai – 600 034.



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5. The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Villupuram.
 6. The Executive Officer,
Sri Ardhanareswarar Temple,
Veeracholapuram,
Kallakurichi.
 7. The Engineer-in-Chief/Superintending Engineer,
Public Works Department,
Kamarajar Promenade, PWD Estate,
Chepauk, Triplicane,
Chennai – 600 005.
 8. The Secretary,
Department of Revenue, and Disaster Management Department,
Secretariat, Chennai – 600 009.
 9. The District Collector,
Kallakurichi District,
Tamil Nadu.
 10. The Superintendent Archaeologist,
The Archaeological Survey of India,
Chennai Circle,
Fort St.George, Chennai – 600 009.
- ... Respondents

Prayer in W.P.No.18838 of 2020: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari calling for the records of the first respondent, quash G.O.(Ms).No.156, Tourism, Culture and Religious Institutions Department, on 28.11.2020 as malicious, arbitrary, unjust and illegal.



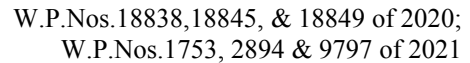
W.P.Nos.18838,18845, & 18849 of 2020;
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Prayer in W.P.No.2894 of 2021: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records of the second respondent, quash the G.O.(Ms).No.120, Tourism, Culture and Religious Institutions Department, dated 19.09.2020 and all proceedings in furtherance thereof and to quash them as arbitrary, unjust and illegal.

Prayer in W.P.No.1753 of 2021: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, to direct the respondents to take further action pursuant to the approval of lease proposal by the Second respondent in G.O.(Ms).No.156, Tourism, Culture & Endowments Department, dated 28.11.2020 by taking note of all necessity factors and beneficial interests of Arulmighu Arthanareeswarar Temple, Veeracholapuram Village, Kallakurichi Taluk & District.

Prayer in W.P.No.9797 of 2021: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned G.O.Ms.No.156, dated 28.11.2020 issued by the 4th respondent to construct collectorate complex of the 6th respondent and quash the same, and consequently direct the respondents 1 to 3 to consider the representation, dated 02.11.2020 of the petitioner and construct the collectorate complex of the 6th respondent at the headquarters to suitably facilitate the residents of Kallakurichi District.

Prayer in W.P.No.18849 of 2020: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, to direct the first respondent to initiate necessary criminal proceedings against the second and fourth respondents and investigate the illegal activity of Criminal Conspiracy to misappropriate the agricultural property belonging to Sri Ardhanareeswarar Temple, Veeracholapuram, Kallakurichi by deliberately undervaluing the said property in G.O(Ms).No.120 Tourism, Culture and Religious Endowments Department, dated 19.09.2020, thereby,



Prayer in W.P.No.18845 of 2020: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, to direct the 10th respondent to declare Sri Ardhanareswarar Temple In Veeracholapuram, Kallakurichi as a National Monument and declare it as a protected site.

W.P.Nos.18838, 18849 & 18845 of 2020: Mr. Rangarajan Narasimhan
(Party-in-Person)

in W.P.Nos.18838, 18849, 18845 of 2020;

For R2, R5, R7 & R8 in W.P.No.2894 of 2021;

:: Mr. R.Shunmugasundaram,
 Advocate General.
 :: Assisted by Mr.N.R.R.Arun Natarajan,
 Special Govt. Pleader.
 :: and Ms.A.G.Saheena

For Petitioner in W.P.No.2894 of 2021 : Mr.T.Dhanasekaran;

For Petitioner in W.P.No.1753 of 2021 : Mr.J.Lakshmi Narayanan;

For R7 in W.P.No.9797 of 2021 &



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For R12 in W.P.No.18838 of 2020 : Mr.S.Senthil

For R1 to R3 & R6 in W.P.No.9797 of 2021 &

For R1, R3, R8 in W.P.No.18845 of 2020 : Mr.P.Muthukumar,
State Govt. Pleader.

For R10 in W.P.Nos.18838, 18845 & 18849 of 2020 : Mr.G.Karthikeyan,
Senior Counsel.
Asstd. By
M/s.G.Vinodhini

For R11 in W.P.No.18838 of 2020: Mr.Lakshmi Narayanan

COMMON ORDER

D.BHARATHA CHAKRAVARTHY, J.,

A. Prelude:

All these matters relate to *Arulmighu Arthanareeswarar Temple, Veeracholapuram, Kallakurichi* Taluk and District, and as such, are taken up and disposed of by this Common Judgment.

2.The prayer in the majority of the Writ Petitions are either opposing or wanting to implement G.O.(Ms).No.156, Tourism, Culture, and Religious Institutions Department, dated 28.11.2020, whereby the property of the Temple, being land admeasuring 34.82 acres in S.No.394 of



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Veeracholapuram, Kallakurichi Taluk, was directed to be taken on long term lease by the Government for the purpose of establishing the Collectorate Complex for the newly formed *Kallakurichi* District. While the said issue is dealt with at first, the other relief prayed for in one of the other Writ Petitions are dealt with in the latter part of this judgment.

B. Brief Facts Leading to the Writ Petitions:

3.The brief facts leading to filing of these Writ Petitions are that on 08.11.2019, an announcement was made by the then Chief Minister of Tamil Nadu in the assembly that the then existing *Villupuram* district will be bifurcated as *Villupuram* and *Kallakurichi* districts. It was decided to locate the Collectorate Complex in the land belonging to the aforementioned Temple and a request was made by the Collector to the Commissioner of the H.R.&C.E Department, on 24.12.2019, to alienate the said land belonging to the Temple by fixing a total sale consideration of Rs.2,27,45,181/-. Vide G.O.(Ms).No.318, dated 27.06.2020 and the Government also accorded Administrative and Financial Sanction for the



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new building complex. On 06.07.2020, the Government of Tamil Nadu also floated a tender for the construction of the Collectorate Complex and other buildings. On 05.09.2020, the Commissioner of H.R&C.E wrote to the Additional Chief Secretary raising an issue that the compensation which is fixed is low. On 10.09.2020 the bid of M/s.P.S.T Engineering Construction, for building Collectorate Complex was accepted and was awarded the contract. Thereafter, on 19.09.2020, the Government of Tamil Nadu issued G.O.(Ms).No.120, ordering a sale of this subject matter property belonging to the Temple to the Government, for a total sale consideration of Rs.1,98,00,000/-. An advertisement was also issued on 22.09.2020 inviting objections for the proposed sale of the Temple property. On 23.10.2020, the then Chief Minister of Tamil Nadu also laid a foundation stone for building the Collectorate Complex at the site and from the very next day, the construction activities commenced. One of the petitioners, *Mr.Rangarajan Narasimhan*, made representation on 25.10.2020 objecting to all the above, more specifically objecting to the sale of the property, at a meeting conducted on 29.10.2020 at the office of the Commissioner, H.R.&C.E,



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Department, Chennai. The said petitioner and several other people objected to the sale and several objections in the form of e-mails were also sent opposing the alienation. On 27.11.2020, W.P. No. 16669 of 2020 was filed challenging the G.O.(Ms).No.120. This Court admitted the writ petition and an interim injunction was granted not to alter the physical features of the land in question.

4. At this juncture, the State of Tamil Nadu withdrew the G.O.(Ms).No.120 and issued G.O.(Ms).No.156, on 28.11.2020, deciding to take the Temple property on a long term lease on a valuation of Rs.12.82 crores. The petitioner, *Mr. Rangarajan Narasimhan* also made a representation on 29.11.2020, opposing the above G.O.(Ms).No.156. Thereafter, the subsequent W.P. No. 18838 of 2020 was filed challenging the above G.O.(Ms).No.156, in which also an interim order was granted. Thereafter, upon completion of pleadings, the matters were heard in detail and by order dated 12.02.2021, this Court after considering the submissions made by the petitioner-in-person and others, to the effect : (i) for several



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decades the H.R.&C.E., Department has not done anything to safeguard the Temple and its properties; (ii) the Temple property should be used only for propagating and undertaking religious activities and if the Temple is restored, once it regains its pristine glory, the land will be essential to conduct the festivities.

C. The Earlier Orders :

5. The matter was argued in detail before our predecessor bench and a detailed order was passed on 12/02/2021. This Court held that both the issues as to the non-maintenance of the Temple and leasing out of the land need to be looked at separately and need not to be mixed up. Thereafter, considering that there was no other alternative land which was comparable to the land in question and the other land sited being a water body and considering the fact that the Commissioner has given sanction under Section 34 of the H.R.&C.E Act, 1959, and the subject land remained fallow for decades together, concluded that the purpose is to ensure the constitutional aspiration of local governance and to bring the governance closer to the



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residents bigger districts have been subdivided into a smaller district and its governance is brought close to home in the Villages and Taluks and towards such an end the District Collectorate has to be established. And if for the said purpose, the land belonging to any religious shrine donated by any good *samaritan* is used, the same is justifiable and as it is used for the same greater public good, as service to humanity is all along considered to be service to God.

6. This Court also imposed conditions on the State of Tamil Nadu that it will ensure that the various parts of the land are exclusively utilised for the purposes as designated and recorded in the said order, and that it would not be permitted to alter the use of any portion of the land or divert it for any other purpose. Finally, this Court considering the assessment as to the value of the land, in the overall facts and circumstances of the case and the arguments of the petitioners that the land in question is grossly undervalued, constituted a committee consisting of the District Collector of *Kallakurichi* and the District Judge *Villupuram* to jointly undertake the



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exercise of submitting a valuation report for the land in question. This Court directed that the State shall pay about 0.125% of the present market value of the land, by way of monthly lease rent for a period of 10 years.

7. This Court also further directed that the lease rent may be required to be revalued every 10 years by assessing the prevalent circle rate at the previous time of valuation and the circle rate at the immediate time of valuation. It is also recorded that the State has proposed to increase the lease rent at 15% every three years, which will enure to the benefit of the Temple. Thereafter, this Court held that the aspects as to increase in rent and the manner in which the money has to be deposited on account of the lease rent and how it has to be preserved and used will be indicated after finalizing the amount of rent. It was also further recorded that the State of Tamil Nadu had proposed three years advance deposit of rent and it was made clear when the terms are finally fixed, nothing which is less beneficial to the Temple than provided for in the terms of the impugned Government order, will be acceptable to the Court, and the matter was adjourned to 16.03.2021.



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8. Since the above order virtually decided these Writ Petitions, opposing the grant of the Temple property on various grounds, the petitioner in person, *Rangarajan Narsimhan*, preferred S.L.P. (Civil).No. 13290 of 2021, on the file of the Hon'ble Supreme Court of India, and by order dated 25.08.2022, the Hon'ble Supreme Court of India confirmed the order passed by this Court. It is essential to reproduce the order of the Hon'ble Supreme Court of India, which reads as follows:-

“Having regard to the facts and circumstances of the cases, we are not inclined to interfere with the impugned order. However, we request the High Court to dispose of the Writ Petition on its own merits without being influenced by the observations made in the Orders passed by the High Court in Contempt Petition No.873 of 2021, on 05.08.2021 and 19.08.2021, as expeditiously as possible and not later than three months from today. All the contentions are left open to be agitated by the parties.

With these observations, the Special Leave Petition is disposed of.”

(emphasis supplied)

9. It can be seen from the above that the Hon'ble Supreme Court of India had made it clear that it was not inclined to interfere with the impugned order and since the Writ Petition was pending, further directions



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were given to this Court to dispose of these writ petitions without being influenced by the observations made in the orders passed in the Contempt Petition No.873 of 2021 in W.P.No.18838 of 2020, dated 05.08.2021 and 19.08.2021.

10. By virtue of these two orders, this Court had entertained the contempt petition on alleged violation of the interim order and it is necessary to extract the orders dated 05.08.2021, and 19.08.2021 respectively, which reads as follows:-

Order dated 05.08.2021 :

“Mr.P.Muthukumar appearing on behalf of the official respondents says that though the initial construction had started, but since or about June, 2021 no further construction has been put up and an application has been filed for environmental clearance. The clearance is still awaited.

2.The respondents should file their counter-affidavits within two weeks from date.

3.Let the matter appear on 19.08.2021.

4.Since the petitioner says that the stand taken on behalf of the State in court is contrary to the



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construction which is taking place, there will be and injunction restraining any further construction at the relevant site pending further orders.

Order dated 19.08.2021:

“Since it is submitted by the petitioner that certain counter-affidavits and documents have been filed by the official respondents on August 18, 2021 and even this morning, let the matter stand over for a week.

2. It is submitted on behalf of the official respondents and the contractor of the project, who seeks to intervene, that environmental clearance has been obtained and even permission has been obtained and even permission has been granted by the Town and Country Planning authorities for the construction to be made.

3. However, since there is an order which requires the construction not to be proceeded with, till permission accorded by this court, the further construction of the project will remain stayed. It is essential that the issue as to whether the relevant land, in principle, may be used for the project has to be decided first.

4. List the matter on 26.08.2021. ”

11. Therefore, it can be seen that after remand of the matter by the Hon'ble Supreme Court of India to this Court is to dispose of the writ



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petitions and the Writ Petitions have to be finally disposed of without being influenced by the observations made in the above injunction orders passed in the contempt petitions. Accordingly, we took up the matter, for hearing.

D. The Submissions:

12. Heard *Mr.Rangarajan Narsimhan*, party-in-person, appearing for W.P.Nos.18838, 18845, & 18849 of 2020, *Mr.Elephant G.Rajendran*, who impleaded himself to support the petitioner, and *Mr.P.Tamilvel*, learned Counsel appearing for W.P.No.9797 of 2021, all three of whom vehemently opposed the Government orders.

13. *Mr.Rangarajan Narsimhan*, party-in-person would submit that the Temple, which is one of the ancient and special temples built by the great king *Rajendra Cholan*, is in a precarious and dilapidated condition. Even several of the idols were stolen and investigation is still pending. The land belonging to the Temple is lying barren. However, it is *punjai* land meant for agriculture and any good samaritan trustee or official of the department



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would have taken steps, then the land would be a fertile land yielding great income to the Temple. When the donor with all religious fervor, donates the land to the Temple for agricultural purposes and it is only for establishing *Nanthavanam*, for cultivating flowers to offer to the deity, for growing oil seeds and extracting oil for lighting the lamps in the Temple, to provide *annadhanam* to the needy worshipers etc.. Because the State officials under H.R.& C.E are in control and supervision of the Temple and its properties, grave illegality is committed in this matter. It can be seen from the dates and events as unfolded in this case that there is a pre-judged attempt in treating the property as a property of the Government and on the face of it, the Government order is illegal. The property of the Temple should be and can be used only for the purposes of propagation of religion or for the Temple and its activities. As a matter of fact, the State of Tamil Nadu itself had issued G.O(Ms).No.79, prohibiting change of land use from agriculture to non-agriculture.



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14. He would further submit that the property in question is on the outskirts of *Kallakurichi* town and as such is taken for the purposes of building a Collectorate Complex. The land is worth several times higher than what is mentioned in the Government order. Even in the report filed by the committee appointed by this Court, the values of land fixed is extremely low. As a matter of fact, the actual rental values by itself would come to more than Rs. 12 Lakhs per month.

15. He would further submit that even before the order under Section 34 of the Act was passed, the land was officially entrusted to the respondents, and the construction was started without even getting the mandatory environmental clearance. The State has indulged in the high-handed illegal action of commencing the work of construction and the basement and up to some level the construction has been put up, but for the intervention in these litigations, the State would have high-handedly taken and exploited the lands belonging to the Temple. Therefore, he would pray that permitting such a long term lease of the Temple property virtually



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amounts to divesting the property of the Temple for nothing. The property can be better used for agricultural purposes and the use cannot be legally changed. If used properly, the property will yield income and the same can be used for the betterment of the Temple. Therefore, he would pray that this Court should quash the G.O.(Ms).No.156 and allow the writ petitions.

16. *Mr. Elephant G Rajendran*, a practicing Advocate of this Court, who also got impleaded in the proceedings so as to support the party-in-person *Mr.Rangarajan Narasimhan*, would submit that the order passed by the Commissioner of H.R.& C.E Department, under Section 34 of the Act, is *per se* illegal as no proposal was mooted by the trustees of the Temple. The Government cannot take up the issue *suo moto* and grant permission. For the proposition that the proposal should emanate from the trustees, the learned Counsel relied upon the Judgment of the Hon'ble Supreme Court of India, in *S.Govinda Menon Vs. The Union of India & Others*¹. The learned counsel relied upon the Judgment in *Kiran Singh & Others Vs.*

¹ AIR 1967 SC 1274



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Chaman paswan & Others², to contend that, if the action of the HR&CE, Commissioner is a nullity, the same cannot be cured even by consent of the parties. Further, he would submit that without framing the Rules envisaged under Section 34-A of the act, the exercise of power under Section 34 is also illegal. He would submit that there is an interim order in W.P. No.27258 of 2019, etc., which prohibited the lands of the Temple from being taken for public purposes by way of sale. He would submit that the laying of the foundation stone by the Chief Minister rendered the very exercise of the power by the Commissioner, HR&CE under Section 34, nugatory. By relying upon the Judgment in **A.A.Gopalakrishnan Vs. Cochin Devaswom Board & Ors³**, he would submit that it is the duty of the courts to protect and safeguard the properties of religious and charitable institutions. None of the persons interested in the Temple were given a hearing and fair opportunity to submit their objections before taking a decision to grant the Temple property on a long term lease. In the absence of express consent of the trustees, the Commissioner cannot sanction, sell or

2 AIR 1954 SC 340

3 2007 (7) SCC page 482



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alienate the property. Therefore, he would submit that this court should, permanently ban the alienation or lease of the temple land; direct the demolition of the existing constructions; direct the respondents to remove the debris; direct recovery of the amount paid to the Tenderer from the officials who granted permission to construct the building, namely the then Chief Minister and the other authorities; direct registration of criminal cases against the officials involved, including the then Chief Minister and the other authorities.

17. *Mr.P.Tamilvelan*, learned Counsel appearing for the petitioner in W.P.No.9797 of 2021. while adopting the above submissions made, would further contend that a specific sale of the land by a Sale Deed, dated 17/09/2020 was made whereby the property which is very adjacent to the property in question has been sold at the rate of Rs 36,850/- per cent and it was also brought to the notice of the committee. The committee simply overlooked the same and if the said Sale Deed is taken into consideration, the lease rent value has to be increased manifold. He would further submit



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that there is yet another Poromboke land, which is very suitable for the establishment of the collectorate complex, which is also very much inside the town and people will also be benefited by the same.

18. Per contra. Mr. *Shunmugasundaram*, learned Advocate General appearing on behalf of the State Authorities would submit that all the earlier issues as to the announcement, laying foundation stone and the quantum for purchase of the property have become redundant because G.O.(Ms)No.120, Tourism, Culture, and Religious Endowments Department, dated 19.09.2020 which was issued granting permission to alienate the land for the construction of integrated Collectorate Complex at *Kallakurichi* District, stood withdrawn. The Government after considering the objections for alienation decided to accept the objections which are mainly on ensuring the permanent income to the temple and on the quantum of the sale consideration etc.. Therefore, the Government decided to take the property on long term lease basis to the Revenue Department. As a matter of fact, the fair rent was fixed at Rs.1,30,000/- per month in accordance with



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G.O.(Ms).No.456, dated 9.11.2017 and Section 34A of the Tamil Nadu HR&CE Act, 1959. He would submit that the proposed construction has to accommodate the district level officers of the various departments. The complex would include the combined District Court Complex, District Police Office, Office of the Joint Director of Agriculture, Office of the District Rural Development Agency, Office of the Project Director (Mahalir Thittam), Office of the Panchayat Development, Office of the Horticulture, Office of the Chief Educational Officer, etc. After considering the proposal, the Commissioner HR&CE, and the Government accorded permission under Section 34 of the Act, and issued G.O.(Ms).No.156, Tourism, Culture and Religious Endowment Department, on 28.11.2020 with the following conditions, which reads as follows:-

“(i) All records to hold the Temples name Arulmighu Arthanareeswarar Temple, Veeracholapuram, Kallakurichi as the permanent owner of the property

ii) Monthly rent fixed as Rs.1,30,000 and the department to deposit 3 years lease amount of Rs.46,80,000 in one instalment before finalising lease agreement

iii) As per Section 34A of TNHR&CE Act, 1959



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fair rent fixed for 3 years and rent shall be refixed every 3 years considering market value

iv) Registration expenses shall be borne by the intending department

v) New constructions to be made on after getting executive officers approval

vi) Land should not be used for any other commercial use other than the Integrated Collectorate Complex

vii) If the collector permits construction of commercial buildings in the temple land such as hotels, tea shops, stationery shop & xerox shop etc, the fair rent will be refixed @ 0.3% of the properties value as per G.O. Ms. 456 TD&RE Dept. dated 09.11.2007

viii) Stone inscription shall be placed stating the punjai land measuring 14.09.00 hectares in Survey No. 394 belongs to Arulmighu Arthanareeswarar Temple, Veeracholapuram, Kallakurichi ix) The intending department must obey Act, rules & conditions issued by HR&CE ”

19. Therefore, he would submit that there was no contravention in law in complying Section 34 of the Act or any other provision of law. He would further submit that the land in question is without any irrigation facilities and it has been lying fallow for long number of years. Even in the



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Revenue records it is classified as fallow (கூரம்பு). The said fact is mentioned as early as on 03.01.1974 in the report of the Special Deputy Collector for Temple Lands. As a matter of fact, there has been earlier attempts to lease out the land for agriculture purposes, but there were no takers. Similarly, one Sankara Group of Institutions also initially came forward to take the property on lease for building colleges, but, however, they also backed out. The temple has not been able to generate income of even a single rupee from the said lands.

20. This apart, it is not the entire extent of the temple property which has to be taken on lease and the remaining extent will be properly maintained and will be developed as a *nandavanam*. He would submit that no Government land is available with an extent of more than 5 acres and the proposed land in *Veracholapuram* is very close to the municipal limits (within 6 kilometers), and closer to the National Highways, so that the people of all six Taluks can easily reach the Collectorate. He would submit that as per the report of the committee appointed by this Court, now the



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lease rent is also enhanced and refixed as Rs.1,60,000/- and the Government has also accepted the same.

21. Over and above, the government has also filed an additional affidavit on behalf of the Commissioner of Hindu Religious and Endowments Charitable Department, whereunder, it is stated that about hundred crores in total has been announced by the Hon'ble Minister for Hindu Religious and Charitable Endowments Department on the floor of the Assembly, for the year 2022-2023 for renovation of ancient temples, and *Arulmighu Ardhanareeswarar Thirukkoil, Veracholapuram* is also included in the scheme. It is stated that the entire temple would be renovated on a scientific basis and will be maintained. The details of the works to be done, were mentioned item wise in paragraph 6 of the additional affidavit. It is also submitted that the estimate of Rs.2.82 crores have also been prepared, the proposed schedule of program is also given, which reads as follows:-

PROPOSED SCHEDULE PROGRAMME FOR THE WORK
OF RENOVATION AND RESTORATION



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1. Proposed Date of Administrative Sanction From Government : Before 10th March 2023
2. Proposed Date of Technical Sanction From Commissioner : 13th March 2023
3. Period of Agreement : 15 Months
4. Proposed Date of Tender Calling : 15th March 2023
5. Proposed Date of Tender Opening : 18th April 2023
6. Proposed Date of TAC (Tender Award Committee) : 15th May 2023
7. Proposed Date of Agreement : 20th June 2023
8. Proposed Date of Commencement : 22nd June 2023
9. Proposed Date of Completion : 21st Sep 2024
10. Proposed Date of Kudamuzhukku : October 2024

22. It is also undertaken that the entire estimate cost of Rs.2.82 crore will be met from the financial assistance through Government grant, and if the cost of renovation and restoration of the Temple exceeded the estimate cost, the same will be provided from Common Good Fund maintained by the Commissioner. Therefore, relying upon the additional affidavit, the



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learned Advocate General would submit that firstly, the Government will be renovating the temple , restoring it to its glory and will be maintained properly.

23. This apart the advance lease amount, and the monthly rent will be deposited into the account of the temple and will be properly and effectively used to upkeep maintenance of the Temple, and the welfare of the temple, and for the purposes of the Temple. That way, if the state is permitted to proceed further with the lease and construction of Collectorate, which also includes the Court Complex and the Superintendent of Police office, etc., it would be best suited for the temple. The learned Advocate General would also contend that the Temple has been receiving its due attention and the trustees have also been now appointed, who are also willing and consenting for the above arrangement.

24. *Mr. Bharnidharan*, learned Counsel appearing on behalf of the temple would submit that repeated attempts made by the temple all along to



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put the property into use; firstly, for agriculture purposes; secondly, for giving it on lease/sale to the education institution did not fructify. The Temple, in spite of possessing such vast extent of land, could not raise any income from the property. The present proposal is most beneficial to the Temple and the same is accepted by the trustees of the temple.

25. *Mr.J.Lakshmi Narayanan*, appearing for the petitioner in *W.P.No.1753 of 2021* would submit that the petitioner therein was the erstwhile trustee of the temple and in spite of his best efforts, he could not generate any income from and out of the property and that the leasing out of the property for public purpose would be more beneficial to the temple. He would pray that the authorities be directed to implement the G.O at the earliest.

26. *Mr. D. Sugumaran*, learned Counsel appearing on behalf of the contractor, who has been entrusted in the construction work, would submit that for no fault of his client, after assembling the machinery and the



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equipments, after making huge investments, after starting the construction, and putting it up to the first floor, the work is stalled for the past two years and every day the contractor is put to great loss and undue hardship. Before commencing with further construction, already it has been decided by the government to comply with and obtain all the requisite permissions, clearances, etc, and therefore, would pray this Court, to vacate the interim order so that the construction activities can resume.

E. The Findings :

27. We have carefully considered the rival submissions made on either side and perused the material records of the case.

28. At the outset, the majority of the contentions advanced by the petitioner-in-person/*Mr.Rangarajan Narasimhan, Mr.Elephant G. Rajendran*, and *Mr.P.Tamilvelan*, learned Counsel, are under the premise that the land of the temple cannot be taken on long lease for the purpose of establishing the Collectorate Complex. The property of the temple should be



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used only for religious purposes alone. We are unable to agree with these submissions for the following reasons:-

(a) While we agree with the submissions of *Mr.Rangarajan Narasimhan* that the initial approach of the State as if the land is a Government interest land belonging to HR&CE department and deciding to alienate the land by way of sale and without even the alienation of the land taking place, laying foundation stone, calling for tender, commencing of the work etc., as improper and illegal, ultimately, the G.O.Ms.No.120, dated 19.09.2020 issued by the Government stands withdrawn and therefore, now only the validity of the G.O.Ms.No.156 which grants lease of the lands alone is in question. Therefore, arguments relating to the events upto the withdrawal of G.O.Ms.No.120 does not have a bearing in deciding the issue;

(b) As far as the validity of G.O.Ms. No. 156 is concerned, the matter has been argued at length before our predecessor bench and the matter has been adjudicated and decided by upholding the propriety of granting lease of the temple land for the construction of Collectorate Complex. Reasons in



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detail were adduced in the said order dated 12.02.2021. Feeling aggrieved, already the matter was carried on appeal to the Hon'ble Supreme Court of India, and as quoted supra, and by its order dated 25.08.2022, the Hon'ble Supreme Court, refused to interfere with the order and the said order has become final. The matter, therefore, is pending only to finalize the lease rent and other modalities as directed in paragraphs 18 and 19 of the said Order;

(c) Apart from the above, the Hon'ble Supreme Court of India had has also directed that the writ petition should be disposed of on its own merits without being influenced by the observations made in the order passed in the contempt petitions and the orders passed in those applications are also extracted *Supra*. Therefore at this stage, only the further courses to be undertaken alone remain, and once again the very basis or the desirability of leasing out of the land to the revenue department cannot be re-agitated.

(d) Even otherwise on the merits of the matter, while the petitioners made forceful arguments about the procedure adopted, they only crossed half the well as they are unable to come up with any better alternative use of the land inspite of the repeated queries of this Court that if the proposal of



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the state is not accepted, then what is to be done with the land of the Temple and whether the lands would be beneficial for the Temple.

(e) As a matter of fact, this Court not only decides the validity of the G.O.M.No.156, but, is also *parens patriae* in respect of the Temple and its properties. Therefore, firstly, we have to consider whether the property is required for the Temple and its religious activities of conducting any festivals etc., and if so, the land cannot be used for any other purpose. In this case, this is not a land which is abutting the Temple or which is earmarked for conducting any festival. On the other hand, this is an agricultural land which is donated to the Temple so as to augment revenue to the Temple. In that view of the matter, there cannot be any opposition for utilisation of the Temple property for a public purpose.

(f) The second factor, which this Court has to give paramount consideration is the safety of the Temple and its properties. The petitioners say that the construction should be demolished, debris should be removed and the property should be given to the private individuals to cultivate. This Court cannot shut its eyes to prevalent situation of the agricultural



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lands belonging to thousands of Temples throughout the State of Tamil Nadu and the manner in which the private persons are cultivating the same or dealing with the same. As a matter of fact, there has been several instances of changing of patta and the Trustees and the departments initiating litigations for recovery of the possession of the land, for recovery of the income and also stopping the misappropriation and alienation of the lands. Therefore, considering the paramount importance of the safety of the Temple land, it is better and safe in the hands of the Revenue Department in terms of a long term release and as the *parens patriae* of the Temple property, we do not agree with the submissions made by *Rangarajan Narasimhan* and *Mr.Elephant G.Rajendran*.

(g) The third factor is the income to the Temple. All the documents on record show the land remained fallow for several decades and the earlier attempts made to raise any income of the property have not fructified. As a matter of fact, on an earlier occasion, the land was sought to be alienated to one of the educational institutions. But, however, the same also did not fructify because the educational institution backed out. Now, the



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Committee appointed by this Court has proposed a monthly lease rent of Rs.1,60,000/-. This apart, the advance amount of Rs.57,60,000/- is also to be paid to the Temple upfront. The lease rent will also be increased 15% once in three years.

(h) This apart, we reiterate the directions of the earlier order, dated 12.08.2021, whereby, the valuation of the properties and the fixation of the rent has to be made afresh after every ten years and accordingly, the lease rent has to be increased. Therefore, taking the recurring income of the Temple as a factor, we again find that the leasing of the Temple land to the Revenue Department is acceptable.

(i) This apart, after leasing out an extent of 34.817 acres, there is a balance extent of 5.003 acres and it is undertaken before us that the said land will be properly fenced and kept in tact and the same can be developed and used for the Temple purposes of putting up *Nandavanam* or things like *Goshala* etc., consistent with the purposes of the concerned Temple which is also made possible by the lease.



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29. For all the above reasons, not only based on the earlier decision of this Court, dated 12.02.2021, we also independently find that the G.O.Ms.No.156 is more beneficial and necessary for the Temple and when the Trustees who are duly appointed under the Act have no objection for such a course, we cannot accept the contention of the petitioner-in-person or the impleaded parties and interfere with the Government Order. We also do not find any criminality in the exercise of power so as to order investigation.

30. At the same stretch, it will be the primary duty of the Commissioner, H.R. & C.E . Department, his subordinate officials, the Trustees and every other person, who is in the administration of the Temple, to properly renovate and maintain the Temple and not to allow such an ancient grand Temple to be in a dilapidated condition and we record the undertaking given by the H.R & C.E Department and the State to forthwith carry out the renovation work as per the schedule mentioned above so that the Temple is restored to its glory and all the poojas and festivals relating to



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the Temple be conducted as per the *Agamas*.

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F. The Order :

31. In the result :

(a) W.P. No. 2894 of 2021 is dismissed as having become infructuous;

(b) W.P. Nos. 18838 of 2020, 18849 of 2020, 9797 of 2021, 1753 of 2021, are disposed off on the following terms :-

(i) The respondents will be entitled to go ahead with the execution and registration of the lease deed and deposit of advance amount as well as the monthly rent starting from the month of July, 2020 at the rate of Rs.1,60,000/- as fixed by the committee and accepted by the respondents;

(ii) The arrears/advance amount duly calculated shall be deposited to the Temple account within a period of one month from the date of receipt of the copy of the order;

(iii) The interim orders prohibiting further construction or restraining changing the nature of the property all shall stand vacated; and accordingly



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W.M.P.No.1625 of 2021 stands allowed and the construction of the building can be further proceeded as per the contract.

(iv) The respondent Authorities shall be at liberty to proceed further with the construction of the Collectorate and the other offices in the manner known to law after getting all the mandatory permissions and clearances.

(v) The lease rent shall stand increased by 15% every three years as observed above and the first revision shall be in June, 2023 and the valuation of the properties and the fixation of the rent has to be made afresh after every ten years starting from the year 2030 and accordingly, the lease rent has to be re-fixed taking into account the then market value and increased.

(vi) The renovation work shall start and be completed as per the undertaking given before this Court in the Additional Affidavit dated 13.02.2023 filed by the authorities and thereafter the temple shall be duly maintained and administered and all the *poojas* and festivals of the temple shall be carried on punctually and with all due sanctity and fervor;

(vii) The state shall also adhere to all the other conditions imposed in



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the G.O.Ms. No. 156 dated 28.11.2020 and the earlier orders of this Court dated 12.02.2021;

(viii) Except for the purposes mentioned in the affidavit and incidental purposes, the state shall not put the property in use for any other purpose.

32. We place on record our appreciation to *Mr.Rangarajan Narasimhan*, the petitioner-in-person, on whose efforts, the above directions towards the renovation and resurrection of the Temple and also putting the Temple property to proper use and realising income for the Temple have better fructified. We also place on record our appreciation to *Mr.Elephant G.Rajendran* who left no stones unturned to agitate the matter under various legal premises. We also place on record our appreciation to the learned Advocate General who placed on record the various initiatives of the Government, coming up with better lease rent and to take up the work of renovating the Temple immediately.

Writ Petition No.18845 of 2020:

33. Though essentially, the same facts are raised in the present Writ



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Petition, the prayer is to direct the tenth respondent namely, the Superintendent, *Archaeological Survey of India*, to declare Sri *Arthanareeswara Temple, Veeracholapuram, Kallakurichi* as a National Monument and to declare it as protected site. In support of the prayer, *Mr.Rangarajan Narasimhan* would rely upon the facts that on 30.07.2018, the Temple was inspected by a retired Superintendent - Archaeological Engineer and thereafter, a proposal was sent to the Regional Heritage Scheme Committee on 20.09.2018 for restoration. As a matter of fact, the antiquity of the Temple is very well recognised by the State Level Heritage Committee itself in its inspection reports and therefore, the tenth respondent, being the authority, under the Ancient Monuments and Archaeological Sites and Remains Act, 1958, has to take steps to declare it as a National Monument and also take control of the Temple.

34. The said prayer was opposed by the learned Additional Advocate General on the ground that there are innumerable monuments and ancient temples across Tamil Nadu and it would be absolutely impossible for the



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Archaeological Survey of India to take each and every of them into its fold and to maintain the same. Further, the maintenance of the structure as a Monument would directly hamper the regular festivals and worship which is being carried out in the Temple. He would submit that there was neither necessity nor justification for such a prayer. He would submit that the action is taken by the State Government by duly consulting the experts while restoring the Temple to its original glory.

35. Firstly, to decide as to whether the temple in question is an ancient monument, it is for the appropriate authority under the Act to consider whether it satisfies the various criteria mandated under the act. Secondly, the Central Government is not even a party in this writ petition. Thirdly, considering the submissions made by the learned Advocate General that the renovation work will be done to the heritage structure by consulting the appropriate experts of the Heritage Committee and when the Government has already sanctioned funds to renovate the Temple, at this juncture, the prayer of the petitioner would only impede the imminent



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necessity of restoring the Temple. We see from the photographs produced by the petitioner himself that the structures of the Temple require immediate attention and commencement of the work. Under these circumstances, when the Archaeological Survey of India considering its own constraints, have not taken over the Temple, at this juncture, we do not deem it appropriate to entrust the Temple to the Archaeological Survey of India in exercise of powers under the Article 226 of the Constitution of India in this public interest litigation. Accordingly, the Writ Petition shall stand dismissed.

36. There shall be no orders as to costs and the connected miscellaneous petitions shall stand closed.

(T.R.,A.C.J.) (D.B.C, J.)
30.03.2023

Index : yes
Speaking order
Neutral citation : yes

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To

- 1.The Addl.Chief Secretary to Govt.,
Govt. of Tamil Nadu,
Chennai – 600 009.
- 2.The Secretary,
Department of Tourism, Culture and Religious Endowments,
Secretariat, Chennai – 600 009.
- 3.The Secretary,
Public Works Department,
Secretariat, Chennai – 600 009.
- 4.The Commissioner,
Hindu Religious and Charitable Endowments Department,
119, Uthamar Gandhi Salai, Nungambakkam,
Chennai – 600 034.
- 5.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Villupuram.
- 6.The Executive Officer,
Sri Ardhanareswarar Temple,
Kallakurichi.
- 7.The Engineer-in-Chief/Superintending Engineer,
Public Works Department,
Kamarajar Promenade, PWD Estate,
Chepauk, Triplicane,
Chennai – 600 005.



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- 8.The Secretary,
Department of Revenue, and Disaster Management Department,
Secretariat, Chennai – 600 009.
- 9.The District Collector,
Kallakurichi District,
Tamil Nadu.
- 10.The Superintendent Archaeologist,
The Archaeological Survey of India,
Chennai Circle,
Fort St.George, Chennai – 600 009.



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**THE HON'BLE ACTING CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY, J.,**

klt

Pre-Delivery Order in

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2020 ;
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30.03.2023