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W.P.No.26009 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.09.2023

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.26009 of 2023
and W.M.P.No.25428 of 2023

Karpoora Chetty Kothra Uppiliya Naicker
Social Welfare and Cultural Trust,
Rep by its Manager Trustee,
T.Chandrasekar,
D.No. EWSB-799, Housing Board Extension,
Veerapanchatram,
Erode – 638 011.

...Petitioner

Vs.

- 1.State of Tamilnadu,
Rep by its the Secretary,
Department of Hindu Religious and Charitable Endowments,
Secretariat,
Rajaji Salai,
Chennai – 600 009.
- 2.The Commissioner,
Hindu Religious and Charitable Endowments,
D.No. 119, Uthamar Gandhi Road,
Chennai -34
3. The Joint Commissioner
Hindu Religious and Charitable Endowments,
Natesa Mill Compound,
Perundurai Road,
Erode.



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4. The Executive Officer,
Karuvanrayan Pomma Deviyar Thirukoil,
Sathy Main Road,
Veerapanchatram,
Erode – 4.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the respondents 1 to 3 to declare Karuvanrayan Pomma deviyar Thirukoil Temple as Private Temple for Uppiliya Naicker Community alone and exclude the temple from section 45 of Hindu Religious Charitable Endowments act and to direct the respondents 1 to 3 to remove the office of 4th respondent for Karuvanrayan Pomma deviyar Thirukoil Temple at Veerapanchatram, Erode and hand over the administration of temple to petitioner on the basis of petitioner's representation dated 29.07.2023.

For Petitioner	: Mr.M.Saravanakumar
For Respondents	: Mr.N.R.R.Arun Natarajan Special Government Pleader HR & CE

ORDER

The petitioner herein seeks a direction to respondents 1 to 3 to declare Karuvanrayan Pomma Deviyar Thirukoil is a private temple of Uppiliya Naicker Community and exclude the temple from the purview of section 45 of Hindu Religious and Charitable Endowments Act and hand over the administration of temple to the petitioner based on his representation dated



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29.07.2023.

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2. According to the petitioner, he is the President of Karpoor Chetty Kothra Uppiliya Naicker Social Welfare and Cultural Trust and persons from Uppiliya Naicker Community are the members of the Trust. The temple in question belongs to the above said community people and the same is a private temple. Hence, the provisions of the Hindu Religious and Charitable Endowments Act is not applicable to the said temple. Therefore, the petitioner submitted a representation dated 29.07.2023 to the respondents, seeking declaration that Karuvanrayan Pomma Deviyar Thirukoil is a private temple of Uppiliya Naicker Community.

3. Mr.N.R.R.Arun Natarajan, learned Special Government Pleader takes notice for the respondents submits that the question whether the particular temple is the private temple or the public temple cannot be determined by the Authorities under the provisions of the Hindu Religious and Charitable Endowment Act. It is for the petitioner to establish the said fact before the Civil Court.

4.The prayer of the writ petitioner is to direct the respondents to



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declare the temple in question as a private temple of Uppiliya Naicker Community and other consequential reliefs. Whether a temple is a public temple or private temple is a matter which falls under the consideration of Competent Authority namely the Joint Commissioner under Section 63(a) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. The said provision reads as follows;

63.[Joint Commissioner or Deputy Commissioner] to decide certain disputes and matters.-Subject to the rights of suit or appeal hereinafter provided, the Joint Commissioner or the Deputy Commissioner, as the case may be, shall have power to inquire into and decide the following disputes and matters.

(a) whether an institution is a religious institution;

5.The expression “*religious institution*” is defined under Section 6(18) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 and the same reads as follows;

(18) ”religious institution” means a math, temple or specific endowment and includes,-

(i) a samadhi or brindhavan; or

(ii) any other institution established or maintained for a



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religious purpose.

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6. The word “*temple*” is defined under Section 6(20) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 and the same reads as follows;

(20) “temple” means a place by whatever designation known, used as a place of public religious worship and dedicated to, or for the benefit of, or used as of right by, the Hindu community or of any section thereof, as a place of public religious worship;

7. A perusal of above said provisions would make it clear that under the Act “*temple*” means a place used as a place of public worship and dedicated to or for the benefit of Hindu community or any section thereof as a place of public religious worship. Therefore, whenever the word temple is employed in any of the provisions of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, it only refers to a place of public religious worship or a public temple. Under Section 6(18) of the said Act religious institution includes a temple. Under Section 63(a) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, if a question arises whether an



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institution is a religious institution or not, the same shall be considered by the Joint Commissioner. Therefore, before coming to a conclusion the institution in question is a religious institution or not, it is obligatory on the part of the Joint Commissioner to decide whether it is a public temple or private temple.

8. In view of the above discussion, it is clear that whenever there is a question with regard to the character of the temple whether it is public or private, the same shall be decided by the Competent Authority namely the Joint Commissioner under Section 63(a) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. The said position was settled by the Division Bench of this Court in ***Inspector /Fit person, HR & CE, Arulmighu Sundaresa Gnaniar Koil, Cholakadai Street, Dharapuram Vs Amirthammal and 3 others*** reported in ***2003 (1) CTC 484***. Therefore, if it is the case of the petitioner that the temple in question is a private temple it is for him to file appropriate application in a prescribed format under Section 63(a) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 before the Joint Commissioner. The said application has to be enquired into and based on the evidence let in by the parties the Competent Authority will decide whether the temple is a private or public.



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9. In view of the same, the direction sought for by the petitioner that the respondents 1 to 3 shall be directed to declare the temple in question as a private temple cannot be issued without enquiry in the manner known to law. In such circumstance, the petitioner is directed to file an appropriate application in the prescribed format under Section 63(a) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, before the Competent Authority seeking appropriate relief, if so advised. If any such application is filed by the petitioner, the same shall be considered and final orders shall be passed by the 3rd respondent.

10. In such circumstances, the writ petition is dismissed with liberty to the petitioner to establish his claim by filing appropriate application in prescribed format. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No



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S.SOUNTHAR, J.

nti/nsl

To

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Chennai – 600 009.
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