



W.P.No.34850 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2023

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THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.34850 of 2022

and

W.M.P.No.34264 of 20122

Salem Erumapalayam Kozhichikaatu
Arulmigu Shri Annamar Swamy Kovil,
Represented by its Secretary,
S.P.K.Ramachandran,
No.1/114, Bajanaimada Street,
Erumapalayam, Salem – 636 015

... Petitioner

VS.

- 1.The Commissioner,
Hindu Religious & Charitable Endowments Department,
Chennai – 600 034.
- 2.The Joint Commissioner,
Hindu Religious & Charitable Endowments Department,
Salem Taluk and District.
- 3.The Assistant Commissioner,
Hindu Religious & Charitable Endowments Department,
Salem Taluk and District.



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4.The Executive Officer,
Salem Erumapalayam Kozhichikaatu
Arulmigu Shri Annamar Swamy Kovil,
Erumapalayam,
Salem District.

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records relating to the impugned order dated 25.11.2022 passed by the 4th respondent and to quash the same.

For Petitioner : Mr.C.Prabakaran
For Respondents : Mr.N.R.R.Arun Natarajan,
Special Government Pleader for R1 to R3

ORDER

The writ petition has been filed challenging the impugned order dated 25.11.2022 for handing over administration of the temple viz., Arulmigu Shri Annamar Swamy temple existing for a period of more than 100 years.



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2. The temple was established by the forefathers of the petitioners belonging to the Nadar community and no public money has been collected for administration of the temple. It is a private temple exclusively belonging to 70 families. The office bearers of the temple were elected once in 3 years and the same is followed periodically for all these years. When the matter stood thus, the order dated 25.11.2022 came to be issued for handing over the administration of the temple to the respondents. The impugned order was passed without even notice to the petitioner.

3. The learned counsel appearing for the petitioner would submit that no notice whatsoever was issued before passing such order. Whereas the temple was in administration of the petitioner and family members for several decades. Even assuming that there was a fit person appointed, for such such proceeding also no notice has been issued. Hence, it is the contention of the learned counsel for the petitioner that the administration cannot be interfered atleast till the petitioner's rights are adjudicated before the Joint Commissioner in the manner known to law.



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WEB COPY 4. The learned Special Government Pleader appearing for the respondents would submit that a fit person was appointed in the year 2020 itself. The same has not been challenged and the temple was brought under the ambit of the Act, 1973. The above proceedings was also not challenged. The impugned order was passed only to handover the possession of the temple. The same cannot be challenged. It is his further submission that at the most the petitioner is entitled to file an application to frame Scheme before the Joint Commissioner. Hence, he opposed the writ petition.

5. As rightly pointed out by the learned Special Government Pleader appearing for the respondents the temple was brought in the ambit of Hindu Religious and Charitable Endowment Act by the proceedings No.586/1973 dated 27.12.1973. The same has not been challenged. That apart, it also appears that a fit person was appointed in the year 2020 i.e., on 23.12.2020 by the proceedings No.6872/2020-51/A2. The impugned order is only a consequential order seeking handover of administration of the temple.



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6. Be that as it may, there is no material whatsoever placed before this Court to show that before appointment of a fit person there was an opportunity for the petitioner in the year 2020. Similarly before issuing the impugned order also no notice was issued to the petitioner. Considering the above aspects and as the temple was brought in the ambit of Hindu Religious and Charitable Endowment Act in 1973 itself and the petitioner is also willing to go before the Joint Commissioner to get their rights adjudicated, it is well open to the petitioner to approach the Joint Commissioner for framing appropriate Scheme for management of the temple.

7. Accordingly, the petitioner is permitted to file such application making all persons interested in the management of the temple as parties and file necessary application before the Joint Commissioner within a period of two (2) months from the date of receipt of a copy of the order. On such petition being filed the Joint Commissioner shall decide the same expeditiously and pass orders framing Scheme within a period of four (4) months thereafter. Till such time *status quo* has to be maintained.



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WEB COPY 8. With the above directions the writ petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

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Index: Yes

Internet: Yes

Speaking order/Non-Speaking order



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N.SATHISH KUMAR, J.

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