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W.P.(MD)No.5811 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.07.2023

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THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

**W.P.(MD)No.5811 of 2023**

**and**

**W.M.P.(MD)No.5381 of 2023**

K.Ramesh

... Petitioner

vs.

1.The Commissioner,  
Hindu Religious and Charitable Endowment  
Department,  
No.19, Uthamar Gandhi Salai,  
Thousand Lights West,  
Nungambakkam, Chennai - 600 034.

2.The Joint Commissioner,  
Hindu Religious and Charitable Endowment  
Department,  
Sivagangai District, Sivagangai.



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3.The Assistant Commissioner,  
Hindu Religious and Charitable Endowment  
Department,  
Virudhunagar Division,  
Virudhunagar District.

4.The Executive Officer,  
A /m.Venkatachalapathy Temple,  
Sathur, Virudhunagar District.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the 1<sup>st</sup> respondent in R.P.No. 43 of 2020/D2, dated 31.01.2023, confirming the order of the 2<sup>nd</sup> respondent in R.P.No. 1/2009/E1, dated 14.11.2019 and to quash the same as illegal and consequentially, to direct the respondents not to interfere with the day today affairs, administration of the petition temple viz., A/M. Mariamman Temple, Sattur, Virudhunagar District, administered by the petitioner.

For Petitioner : Mr.M.Karthikeya Venkatachalapathy  
For Respondents : Mr.S.P.Maharajan  
Special Government Pleader



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## **ORDER**

This writ petition is filed for writ of Certiorarified Mandamus, to quash the impugned order dated 31.01.2023 passed by the 1<sup>st</sup> respondent in R.P.No.43 of 2020/D2, confirming the order of the 2<sup>nd</sup> respondent in R.P.No. 1/2009/E1, dated 14.11.2019 as illegal and consequentially to direct the respondents not to interfere with the day today affairs of the administration of the petition temple viz., A/M. Mariamman Temple, Sattur, Virudhunagar District, administered by the petitioner.

2. The petitioner is a member of Nadar community. The temple is situated in Sathur, Virudhunagar District, which is dedicated to the worship of Goddesses Badrakali Amman, Mariamman and Lord Shiva. During the pre-independence era, the Nadar community called as Sanars were depressed, suppressed and denied entry in any religious institutions.



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Therefore, they decided to construct their own communal temple in the year 1949. The petitioner's community had purchased the land and put up the construction. Since there was interference by the HR&CE Department, the community people had filed O.S.No.88 of 2005 on the file of Sub Court, Sivakasi inter alia praying to declare the temple as denominational community temple and the same was dismissed. Aggrieved over the dismissal of the above said suit, the plaintiffs therein had preferred appeal in A.S.No.16 of 2008 on the file of District Court, Srivilliputtur. The appellate Court has set aside the judgment and decree passed in O.S.No.88 of 2005 and declared the temple as denominational community temple and directed the appellants to approach the HR and CE Department authority to get a certificate of communal denomination temple. But the appellants failed to approach the authorities since they were under the impression that the declaration granted in A.S.No.16 of



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2008 is sufficient.

3. In spite of the declaration in the said judgment, the respondents initiated proceeding to appoint a fit person. Again, another round of litigation was started in R.P.No.1 of 2009. After hearing the plea of the temple, the respondent dismissed the petition. Aggrieved over, the temple preferred a review application in R.P.No.43 of 2020 before the 1<sup>st</sup> respondent. The 1<sup>st</sup> respondent has passed the impugned order stating that even though in the A.S.No.16 of 2008, it has been declared as denominational community temple and directed the plaintiffs to approach the authority with appropriate application for seeking the status of denominational community temple, since the plaintiffs had not approached the authorities, the respondents have proceeded as if it had not been declared as community temple and proceeded to appoint a fit



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person. Aggrieved over the same, the present writ petition is filed.

4. The learned Special Government Pleader appearing for the respondents sought time to file a counter affidavit. This writ petition was filed in March, 2023 but the respondents have not chosen to file the counter affidavit, inspite of notice. It is seen that the respondents have filed counter affidavit in the review application and the same shall be treated as counter filed in this writ petition. The said counter affidavit is sufficient to decide the issue before this Court. Moreover, the stand of the respondents is evident from the impugned order and the respondents cannot travel beyond the impugned order. Therefore, this Court is rejecting the plea of the learned Special Government Pleader seeking time to file counter affidavit.



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5. The respondents have admitted that the judgment and decree passed in A.S.No.16 of 2008 is in favour of the petitioner temple wherein it has been clearly declared that the appellants' temple is a denominational community temple. However, a consequential direction was issued wherein it is stated that the appellants shall approach the appropriate authority for getting the certificate of denominational temple, but that has not been complied by the petitioner. Since the petitioners have not approached the authorities for the certificate, since as on date there is no certificate, the respondents have come to the conclusion that it is not denomination temple. Even if the contention of the respondents is accepted, the other part of the judgment which has declared the temple as denomination temple would be staring at the respondents. Not approaching the respondents for the certificate, at the most can be termed as procedural irregularity. Therefore, the plea of the respondents ought to



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be rejected.

6. Since in the other part of the judgment it has been clearly declared that it is a denomination temple, then the respondents would not have any jurisdiction to interfere in the temple. Though there is a delay in approaching the respondents for the said certificate, it will not confer jurisdiction on the respondents to administer the denomination temple. More so the respondents are not having power to appoint a fit person. Therefore, the appointment of fit person is illegal and beyond the jurisdiction of the respondents.

7. When it was brought to the knowledge of the respondents in the impugned proceeding about the judgment and decree, the respondents rather than appointing the fit person ought to have implemented the



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judgment and decree and granted the certificate of denomination temple.

8. Therefore, this Court is of the considered opinion that the respondents have exceeded their jurisdiction and without respecting the judgment and decree rendered by the jurisdictional Appellate Court has passed the impugned order. Therefore, this Court is quashing the impugned order.

9. This Court is of the considered opinion that when the Civil Court has declared the temple as denomination temple, a separate certificate by the HR and CE Department is not necessary. The respondents shall treat the said temple as a denomination temple. Consequently, this Court is forbearing the respondents in interfering with the administration of the temple.



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10. With the above said observation, the writ petition is allowed.

No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No

**14.07.2023**

Internet : Yes

NCC : Yes / No

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To

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**S.SRIMATHY, J**

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