



W.P.(MD) No.7899 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.04.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.7899 of 2023

and

W.M.P.(MD) No.7315 of 2023

1.Ganesan Sankaran,
President/ Hereditary Trustee of
Arulmighu Neelakanda Pillayar Temple,
Neelakandapuram, Peravoorani Taluk,
Thanjavur District-614 804.

2.Kuppamuthu Sankaran,
Hereditary Trustee of
Arulmighu Neelakanda Pillayar Temple,
Neelakandapuram, Peravoorani Taluk,
Thanjavur District-614 804.

.. Petitioners

Vs.

1.The Executive Officer,
HR & CE Department,
Arulmighu Neelakanda Pillayar Temple,
Neelakandapuram,
Yendhal, Peravoorani Taluk,
Thanjavur District.

2.The Revenue Divisional Officer,
Pattukottai,
Thanjavur District.



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3.The Tahsildar,
Peravurani Taluk, Peravurani,
Thanjavur District.

4.The Inspector of Police,
Peravurani Police Station,
Peravurani, Thanjavur District.

5.P.Chezhiyan .. Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, forbearing respondents 1, 2, 3 and 5 from interfering with the rights of the petitioners as Hereditary Trustees of Arulmighu Sri Neelakanda Pillayar Temple at Neelakandapuram Village, Endal, Peravoorani Taluk, Thanjavur District in the guise of Peace Committee Meetings or implementing the minutes recorded there at on 01.04.2023.

For Petitioner	:	Mr.N.Dilip Kumar
For R1	:	Mr.P.Subbaraj Special Government Pleader
For RR2 to 4	:	Mr.D.Ghandiraj Special Government Pleader
For R5	:	Mr.Ramesh Mahadev



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ORDER

This writ petition has been filed for a mandamus forbearing respondents 1, 2, 3 and 5 from interfering with the rights of the petitioners as Hereditary Trustees of Arulmighu Sri Neelakanda Pillayar Temple at Neelakandapuram Village, Endal, Peravoorani Taluk, Thanjavur District in the guise of Peace Committee Meetings or implementing the minutes recorded there at on 01.04.2023.

2. It is necessary to briefly touch upon the facts, which have constrained the petitioner to approach this Court. It is the case of the petitioner that Arulmighu Sri Neelakanda Pillayar Temple at Neelakandapuram Village, Peravoorani Taluk, Thanjavur District, is an ancient temple, which has been established by the petitioners' ancestors. By an order dated 18.05.1929, the Board of Commissioners for Hindu Religious Endowments, as it was then known, had declared the temple to be an excepted temple. Thereafter, the Board had settled a scheme of administration for the temple in exercise of its powers under Section 57



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of the Hindu Religious Endowments Act. One of the salient features of the scheme was that the temple and its properties would be administered subject to the provisions of the scheme by one or more trustees (not exceeding three) appointed by Act II of 1927 and the Executive Officer appointed by the Board under the provisions of the scheme.

3. The petitioners would submit that their ancestors were the trustees of the temple for time immemorial. One Sri Perian Sankaran was the Trustee for over 50 years. After him, Sri Chinna Sankaran served as a Trustee for 20 years and therefore, it was only the Sankaran family who had been in the exclusive management of the temple. The petitioners are the legal descendants of this group.

4. In the year 1949, when the Board settled a scheme of administration for the temple, the Board by mistake had spoken about non-hereditary Trustees. Before finalisation of the scheme, the Trustees were not heard. Therefore, the hereditary Trustees filed O.A.No.14 of 1963 to declare their right as hereditary Trustees. The said application



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was dismissed against which an appeal petition in A.P.No.14 of 1966 was filed which also ended in a dismissal. The hereditary Trustees had thereafter filed a suit in O.S.No.38 of 1968 on the file of the Subordinate Judge, Thanjavur. After a detailed trial, the suit was decreed declaring Sri Perian Sankaran and Subban Sankaran as the hereditary trustees of the temple. This judgment and decree was not challenged and has attained finality.

5. Thereafter, O.A.No.194 of 1975 was filed before the Deputy Commissioner for modification of the scheme to give effect to the judgment in O.S.No.38 of 1968. Instead of complying with the decree, as provided under Section 64(5)(a) of the Act, the said application was dismissed against which A.P.No.76 of 1974 was filed. The Commissioner allowed the appeal and the matter was remanded back to the Deputy Commissioner, who once again dismissed the application. Against which the hereditary Trustees had filed A.P.No.107 of 1979 before the Commissioner. The Commissioner had dismissed the appeal against which a suit in O.S.No.35 of 1982 was filed before the



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Subordinate Judge, Pattukottai. After a serious contest by the Department and the Executive Officer of the temple, the suit was decreed on 26.08.1983. This judgment and decree was taken up on appeal by the Commissioner and the Executive Officer in A.S.No.139 of 1986 on the file of this Court. The appeal was dismissed by judgment and decree dated 09.09.1999 against which only the Executive Officer, viz., the first respondent herein had filed L.P.A.No.46 of 2000 before a Division Bench of this Court. This appeal was also dismissed by judgment and decree dated 13.03.2001. Once again it was only the Executive Officer who had challenged the decree before the Hon'ble Supreme Court in S.L.P.(Civil) CC.No.7065 of 2001. The same was dismissed on 08.10.2001. As a result, the right of the petitioners as hereditary Trustees and having the right to administer and manage the temple had attained finality. Ultimately, the orders were given effect to by Gazette Notification dated 25.02.2020, after which the petitioners had assumed office.



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6. It is the case of the petitioners that for all official purposes, their names are printed along with that of the Executive Officer where it involves a public auction or matters relating to the administration of the temple. During the COVID pandemic, the annual celebrations of the temple was not held for the years 2020 and 2021. The hereditary Trustees are entitled not only to administer the temple, but also to conduct the festivals of the temple. After the lockdown was lifted for the year 2022, it was decided to conduct the annual festival. When the petitioners had published invitation showing their name as hereditary Trustees, the same was objected to by a member of a political party and all of a sudden, a Peace Committee Meeting was convened by respondents 2 and 3 on 16.03.2022 and 26.03.2022 and in the guise of passing resolution, the petitioners were prevented from printing their name in the invitation. This was challenged by the petitioners by filing writ petitions before this Court in W.P.(MD) Nos.5943 and 5994 of 2022. Then the festival had also started and had concluded.



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7. The Chithra Pournami festival for this year is scheduled to be held from 26.04.2023 to 07.05.2023. When the petitioners printed the invitation for the festival showing their name, the member of the legislative assembly belonging to the ruling party once again puts spokes which led to the third respondent issuing a notice calling upon the petitioners to participate in a Peace Committee Meeting. The petitioners could not participate in the meeting on 01.04.2023 and they had requested postponement of the meeting. However, the third respondent went again with the meeting and passed resolution which went against the rights of the petitioners as hereditary Trustees. The third respondent has passed a resolution that the names of the petitioners cannot be printed in the invite. It is aggrieved by this act, that the petitioners before this Court.

8. The respondents had not filed any counter, but had only filed certain documents and made their submissions.



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9. Mr.N.Dilip Kumar, learned counsel appearing for the petitioners reiterated the contents of the affidavit and submitted that by conducting Peace Committee Meeting, respondents 1 to 3 were attempting to circumvent the orders passed by the civil Court, which have been upheld right up to the Hon'ble Supreme Court. He would further submit that the resolution arrived at in the Peace Committee Meeting does not have any statutory value or force and no reliance can be placed upon the same. He would submit that it is only the fifth respondent at the behest of the powerful person, who is trying to scuttle the rights of the petitioners.

10. The learned Government Advocate and the learned Special Government Pleader appearing for the officials respondents would contend that proceedings have been initiated against the petitioners on the allegation of breach of trust, misappropriation of properties owned by the temple and they are acting adverse to the interest of the temple.

11. The learned counsel appearing for the fifth respondent would submit that one Aravindhan, has filed a writ petition in



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W.P.(MD) No.26938 of 2022 as a Public Interest Litigation to remove the encroachments in S.Nos.151/1, 151/3 and 151/4 measuring about 2.46.50 Hectares, which originally belonged to the temple and to dismiss the hereditary Trustees for their breach of trust, misappropriation of properties etc. He would further submit that this writ petition was disposed of with a direction to the authorities to consider and dispose of the representation of the petitioner therein and this representation is now under consideration by the Commissioner, HR & CE Board. He would refer to the letter sent by the Joint Commissioner to the Commissioner wherein the Joint Commissioner had stated that the petitioners have encroached into the properties of the temple and that the encroachment has to be removed and that the petitioners are enjoying the rents that are due to the temple. Therefore, he has recommended for an enquiry under Section 53(2) of the Act. The learned counsel would further emphatically submit that the petitioners are going to be removed from their post as hereditary Trustees and therefore, the relief sought for by them should not be granted.



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12. Heard the learned counsel appearing for the respective parties.

13. The facts of this case bring to the fore the absolute apathy displayed by the public authorities to the orders of the Court and their attempts to please certain vested interest. In the case on hand, the petitioners have had not one but two orders of a civil Court reiterating their position as hereditary Trustees and their right to administer and manage the temple. This being the case, the authorities particularly respondents 1 to 3 have encouraged strangers to intermeddle in the affairs of the temple and thereby using it to hold a Peace Committee Meeting to pass orders contrary to the judgments and decrees of the civil Court. This trend cannot be allowed to perpetuate. The petitioner has shown proof that in all other official communications, their names have been added and they have been described as the hereditary Trustees.

14. While so, there is absolutely no explanation as to why their names should not feature in an annual festival of the temple in which temple, they are today the hereditary Trustees. The allegation that



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proceedings have been initiated against the petitioners for an alleged mismanagement requires a relook. These proceedings against the petitioners have been initiated on the basis of an alleged writ petition filed by one Aravindhana. Incidentally, the learned counsel who appears for the fifth respondent herein is the very same counsel who has appeared for the petitioner in the said writ petition. The said writ petition has been disposed of without notice to the petitioners herein, who have been arrayed as respondents 3 and 4 in the said writ petition. The Division Bench of this Court has simply disposed of the writ petition stating that it is for the authorities to dispose of the representation and the Bench was also cautious in stating that if an encroachment is found, the same has to be removed only after affording opportunity to the parties concerned and after following due process of law. This, by no stretch of imagination, can be stated to be proved about the allegations put forward by the writ petitioner therein. The communication, which is being referred to is also merely a percussor for initiating proceedings under Section 53(2) of the Act and an allegation which is rebuttable. Therefore, as on date, there is no impediment for allowing the writ petition. The fifth respondent is



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totally a stranger to the administration and management of the temple and he cannot prevent the hereditary Trustees from functioning till such time as he continues to remain hereditary Trustee. Therefore, this writ petition is disposed of as prayed for. No costs. Consequently, connected miscellaneous petition is closed.

18.04.2023
(2/2)

NCC : Yes/No
Index : Yes/No
Internet : Yes

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To

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HR & CE Department,
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P.T.ASHA, J.

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4.The Inspector of Police,
Peravurani Police Station,
Peravurani, Thanjavur District.

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Dated: 18.04.2023
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