



W.A.(MD) No.475 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.(MD) No.475 of 2023
and
C.M.P.(MD)No.4878 of 2023

A.T.Karuppaswamy : Appellant/5th Respondent

-vs-

1.U.Muthu

2.S.Malmurugan : Respondents 1 & 2/Petitioners

3.The District Collector,
Collectorate, Korampalam,
Thoothukudi,
Thoothukudi District.

4.The Joint Commissioner,
Office of the Joint Commissioner,
Department of Hindu Religious and Charitable Endowment,
Thoothukudi.

5.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Tiruchendur,
Thoothukudi District.

6.The Tahsildar,
Taluk Office,
Tiruchendur,
Thoothukudi District.

: Respondents 3 to 6/Respondents 1 to 4



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WEB PRAYER: Writ Appeal has been filed under Clause 15 of Letters Patent to set aside the order, dated 14.03.2023 made in W.P.(MD)No.5359 of 2023 on the file of this Court.

For Appellant : Mr.Valliappan
Senior Counsel
for Mr.S.Shriram Narayanan

For Respondents : Mr.V.Rajiv Rufus for R1 & R2

Mr.S.P.Maharajan
Special Government Pleader for R3 to R6

JUDGMENT

[Judgment of the Court was made by S.S.SUNDAR, J.]

This writ appeal is directed against the order of the learned Single Judge in a writ petition filed by the respondents 1 and 2 in W.P.(MD)No.5359 of 2023, dated 14.03.2023.

2.The brief facts, which are necessary for the disposal of this writ appeal, are as follows:

2.1. The second respondent in this appeal has filed an application before the Joint Commissioner, Thoothukudi, under Section 63 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. In the petition, the



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second respondent prayed for a declaration to declare the temple known as Arulmighu Sri Manthiramurthy Swami Temple as a religious institutions fall under the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. The temple appears to be a public temple. The appellant admits that it is a public temple and it appears that there is a dispute with regard to the character of the temple whether it is a public or private temple. The second respondent/petitioner, in his application, has sought for a declaration that the temple is a religious institution which comes within the purview of the Tamil Nadu Hindu Religious and Charitable Endowments Act 1959. The further prayer is for administration of the temple by appointing a Special Officer and to take charge from the persons, who are mismanaging the affairs of the temple.

2.2. During the pendency of the application, the respondents 1 and 2/ petitioners appears to have submitted several other representations with the revenue officials. Be that as it may, the petitioners filed a writ petition for issuance of a Writ of Mandamus directing the second respondent in the writ petition to pass an order in the original application filed by the second respondent/writ petitioner under Section 63 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. The said writ petition was disposed of with a direction to the Joint Commissioner/fourth respondent to



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consider and pass final orders on the application filed by the petitioners, giving opportunity of personal hearing to both the writ petitioners as well as the appellant/fifth respondent within a period of eight weeks from the date of receipt of a copy of the order.

3. However, this Court having regard to the serious allegations made against the appellant/fifth respondent held that the fourth respondent shall not proceed with the demolition and construction of the building till such time, the application filed by the petitioners is disposed of.

4. The learned counsels appearing for the writ petitioners as well as the appellant states that the learned Single Judge has only directed the appellant/fifth respondent not to demolish or to construct the temple till such time, the application filed by the writ petitioners under Section 63 application is disposed of.

5. The learned Senior Counsel appearing on behalf of the appellant submitted that the writ petition was disposed of without hearing the appellant/fifth respondent. He also submitted that the fifth respondent is not aggrieved by the direction for the disposal of the original application in O.A.No. 6 of 2022, but only the observation, wherein, the learned Single Judge has



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directed the fifth respondent in the writ petition not to demolish any temple building or to put up any new construction. In this context, the learned Senior Counsel would point out that the fifth respondent had undertaken renovation works by spending a great cost and the entire work proposed is in the middle.

6. In the said circumstances, this Court is of the view that the direction by the learned Single Judge would indirectly amount to take over the management of the temple by the persons who are now holding office either as adhoc trustees or *defacto* trustee. Therefore, this Court is inclined to allow the Writ Appeal only as against the direction of the learned Single Judge directing the appellant/fifth respondent not to demolish or construct the temple. That portion of the order is set aside. The fourth respondent is directed to consider and dispose of the application filed by the writ petitioners under Section 63 of the Hindu Religious and Charitable Endowment Act, within a period of four weeks from date of receipt of a copy of this order, on merits and in accordance with law, after issuing notice to the appellant and the writ petitioners or any one of the interested parties.

7. Accordingly, the Writ Appeal stands allowed. No costs. Consequently, connected miscellaneous petition is closed.



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NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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[S.S.S.R., J.] [D.B.C., J.]
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and
D.BHARATHA CHAKRAVARTHY, J.

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