



W.P.(MD) No.8485 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.04.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.8485 of 2023

and

W.M.P.(MD) Nos.7823 and 7824 of 2023

A.Sorimuthu

.. Petitioner

Vs.

- 1.The Commissioner,
Hindu Religious and
Charitable Endowments Department,
Chennai-34.
- 2.The Assistant Commissioner,
Hindu Religious and
Charitable Endowments Department,
Thoothukudi.
- 3.The Executive Officer,
Arulmighu Sankara Rameshwarar Temple,
Thoothukudi.

4.M.Sroimuthu

.. Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, calling for the records of the impugned proceedings of the first respondent in Ni.Mu.No.



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050475/2020/E2 dated 14.06.2021 and the consequential impugned proceedings of the second respondent in Se.Mu.Na.Ka.No. 2646/2021/Aa1 dated 29.03.2023 and quash the same as illegal.

For Petitioner : Mr.R.J.Karthick
For RR1 & 2 : Mr.P.Subbaraj
Special Government Pleader

ORDER

This writ petition has been filed for the following relief:

“For the issue of a Writ of Certiorari, calling for the records of the impugned proceedings of the first respondent in Ni.Mu.No. 050475/2020/E2 dated 14.06.2021 and the consequential impugned proceedings of the second respondent in Se.Mu.Na.Ka.No.2646/2021/Aa1 dated 29.03.2023 and quash the same as illegal.”

2. It is the case of the petitioner that he is the Managing Trustee of Sri Marudhamaram Sudalaimadasamy Temple, Varthaga Reddipatti Village, Thoothukudi Taluk and District and Sri Veeraperumal Ayyanar Temple of the above said village. It is his case that these two temples



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were constructed by his forefather during the regime of Veerapandiya Kattabomman. His forefather viz., Deiva Soodamaniya Pillai, would do the pooja for the deity and conduct the festival which custom has been followed by his descendants. After the demise of his father Abayam Theerthapillai, the petitioner as the descendant of Deiva Soodamaniya Pillai, is continuing the pooja and the temple festival. While so, the fourth respondent, who was not a member of the family of the Deiva Soodamaniya Pillai, started claiming right to the temple which ultimately resulted in the holding of the Peace Committee Meeting of the Revenue Divisional Officer, Thoothukudi. The petitioner's group was shown as 'A' party and the fourth respondent's group as 'B' party. The agreement in this peace committee meeting dated 04.07.2000 was that the 'A' party was to conduct the festival on the 4th Tuesday of Aadi month and the 'B' party had to conduct the festival on the 1st Tuesday of Aadi month. The keys of the temple were directed to be handed over to the Thattaparai Police Station and the same were directed to be given only for the next festival. At present, the keys are under the custody of the Revenue Divisional Officer, Thoothukudi.



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3. The petitioner would submit that for the past 20 years, the festival has been conducted peacefully without any untoward incidents. Thereafter, the petitioner's group has renovated the temple and constructed a Kalmandapam as also concrete roof for the storeroom. A compound wall was also constructed and an arch for Sri Marudhamaram Sudalaimadasamy Temple was also put up. These constructions were done with the contribution from the petitioner's family members.

4. Meanwhile, one Velayutham, who had not contributed in any fashion to the construction, insisted that his name should also be inscribed on the stone inscription, which was refused and thereafter, he started interfering with the temple affairs and created problems and had made a complaint to the officials to take action to conduct only one *Kodaivizha*. Once again a peace committee meeting was held on 20.06.2019 wherein it was resolved that the proceedings of the Revenue Divisional Officer, Thoothukudi, dated 04.07.2000 shall be followed and Velayutham's request was rejected. He therefore, filed W.P.(MD) No.



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15764 of 2019 before this Court seeking the issue of a Writ of Mandamus to respondents 1 to 3 to appoint a Fit Person to administer the temple. During the hearing, the Government Pleader represented that the Hindu Religious and Charitable Endowments Department had taken over the management of the temple and an Executive Officer was appointed. Recording this submission, the writ petition was dismissed.

5. In the light of the above submission, the petitioner had filed an RTI application seeking issue of the proceedings of the first respondent taking over the temple. At this juncture, the second respondent has issued proceedings dated 06.07.2021 along with the impugned proceedings of the first respondent dated 14.06.2021 and the impugned order would read that the temple has been taken over by the Hindu Religious and Charitable Endowments Department and it has been listed as Serial No.2 in page 405 of the temple register. Through this proceedings, the first respondent had directed the second respondent to appoint a Fit Person. This proceedings was objected to by the petitioner. The petitioner was aggrieved by the fact that since the hereditary trustees



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were available, there was no necessity to appoint a Fit Person. The proceedings was challenged both by the petitioner as well as by the fourth respondent in W.P.(MD) No.12631 of 2021 and W.P.(MD) No. 15745 of 2021 respectively and an interim order of *status quo* was granted. Ultimately, the writ petitions were disposed of directing the petitioner and the fourth respondent to submit explanation to the show cause notice dated 06.07.2021. Thereafter, the second respondent by his proceedings dated 28.02.2023, directed the petitioner to appear for enquiry and offer the explanation. As apprehended, the second respondent has passed the impugned order dated 29.03.2023 appointing the third respondent as the Fit Person. It is this proceedings that is now the subject matter of challenge in this writ petition.

6. Heard the learned counsel appearing for the parties.

7. Admittedly, orders have been passed without any notice whatsoever to the petitioner and without affording an opportunity to the petitioner to put forward his contention. This assumes significance in the



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light of the fact that the petitioner as well as the fourth respondent have already initiated proceedings and have also questioned the right of the third respondent to enter into the administration of the temple. Therefore, since the principles of natural justice have been floated, this Writ Petition is allowed, the impugned proceedings of the first respondent in Ni.Mu.No. 050475/2020/E2 dated 14.06.2021 and the consequential impugned proceedings of the second respondent in Se.Mu.Na.Ka.No.2646/2021/Aa1 dated 29.03.2023 are quashed and the matter is remitted back to the first respondent, who shall after affording one more opportunity to the parties to appear in person, pass a speaking order on merits within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

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

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P.T.ASHA, J.

abr

To

- 1.The Commissioner,
Hindu Religious and
Charitable Endowments Department,
Chennai-34.
- 2.The Assistant Commissioner,
Hindu Religious and
Charitable Endowments Department,
Thoothukudi.

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