



W.P.(MD)No.11401 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **04.05.2023**

CORAM:

THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

W.P.(MD)No.11401 of 2023

and

W.M.P.(MD)Nos.9887, 9889 & 9890 of 2023

S.Murugesan

... Petitioner

Vs.

1.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Madurai.

2.Arulmigu Kallazhagar Thirukovil,
Rep. by its the Joint Commissioner,
Alagarkoil, Madurai District.

3.Arulmigu Kallazhagar Thirukovil,
Rep. by its the Executive Officer / Deputy Commissioner,
Alagarkoil, Madurai District.

4.N.Alagesan

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pursuant to the



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impugned proceedings of the 2nd respondent dated 07.04.2023, vide Na.Ka.No.3166/2022/A3 and quash the same.

For Petitioner	: Mr.R.M.Suresh
For R1 & R2	: Mr.G.V.Vairam Santhosh Additional Government Pleader
For R3	: Mr.K.R.Laxman

ORDER

This writ petition has been filed challenging the impugned proceedings of the second respondent in Na.Ka.No.3166/2022/A3, dated 07.04.2023.

2. It is the case of the petitioner that one Subbaiah, who is the father of the petitioner, purchased the kalmandapam from one Sikkantharammal, by way of sale deed dated 17.03.1948 vide Document No.1062/1948. The said Kalmandapam was executed by his father in favour of the petitioner, through a registered will dated 08.08.1966, vide registered document No.131/1966, which is situated in S.No.466/3. No



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one is entitled to claim the said Kalmandapam and it has to be treated as a private trust. Every year, Mandagapadi, Chithirai festival and poojas are performed to Arulmigu Kallazhagar deity. The petitioner's father, namely, Subbaiah died 42 years back. After death of the petitioner's father, the registered will dated 08.08.1966 came into effect and since the death of his father, the petitioner has to perform poojas as per the will and the petitioner is exclusively enjoying the property as absolute owner of the property, which bears the Door No.9, which is a Kalmandapam.

3. It is the further case of the petitioner that the fourth respondent has no manner of right or title or interest over the aforesaid property. Concealing the aforesaid fact, the fourth respondent has filed a suit in O.S.No.1165 of 2011 before the learned Principal District Munsif, Madurai Town, in which, the petitioner was added as the second defendant. In the said suit, the trial Court granted permanent injunction as against the petitioner, though the suit is not connected with the Door No.9, which is a Kalmandapam, but it relates to only Door No.9A. As against the injunction granted by the trial Court, the petitioner and his



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brother filed an appeal in A.S.No.43 of 2018 before the II Additional Sub Judge, Madurai, who in turn, allowed the appeal by decreeing the suit in favour of the petitioner. Aggrieved by the same, the fourth respondent herein filed a second appeal in S.A.(MD)No.364 of 2021 and obtained an order of interim injunction on 09.06.2021. However, the injunction relief is only related to Door No.9A, not in Door No.9. Thus, there is no legal impediment for the petitioner to perform Mandagapadi at the time of Arulmigu Kallazhagar festival.

4. Last year, the fourth respondent filed a writ petition in W.P. (MD)No.6945 of 2022 forbearing the petitioner herein and his brother from conducting Thirukkan Mandagapadi at Door No.9A, Mathichiyam Village, Madurai Town on 12.04.2022 or any other subsequent dates. The said writ petition was closed on 20.04.2022. The petitioner has also filed an application to conduct Chitthirai Festival in the same year in Door No. 9A wherein, Kalmandapam is situated and the said application was rejected on 07.04.2023. Challenging the same, the present Writ Petition has been filed.



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5. The learned counsel appearing for the petitioner would submit that the second appeal in S.A.(MD)No.364 of 2021 is pending before this Court in respect of Door.9A of the property and not in respect of Door No.9 of the property. Since there is no dispute with regard to Door No.9 of the property, there is no legal impediment to the petitioner to conduct Arulmigu Kallazhagar festival.

6. The learned Standing Counsel appearing for the third respondent would submit that there is a dispute between the petitioner and the fourth respondent, for which the second appeal is pending before this Court. Since this Court has granted interim injunction in favour of the fourth respondent, if this petition is allowed, it would amount to interfere with the order passed by this Court in the second appeal.

7. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 and 2 and the learned Standing Counsel appearing for the third respondent.



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8. The facts in the present case are not in dispute. Admittedly, there was a dispute between the petitioner and the fourth respondent for which a suit was filed by the fourth respondent, and the suit was decreed in favour of the fourth respondent, as against which, an appeal has been filed by the petitioner and his brother, which was reversed by the lower appellate Court, as against the same, the fourth respondent filed a second appeal before this Court. Since this Court has granted interim injunction in favour of the fourth respondent, if this petition is allowed, it would amount to interfere with the order passed by this Court in the second appeal. Hence, this Court is not inclined to interfere with the order passed by the second respondent and accordingly, this Writ Petition is dismissed. However, liberty is granted to the petitioner to file appropriate application before this Court in the second appeal. No costs. Consequently, connected Miscellaneous Petitions are closed.

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NCC: Yes / No
Index: Yes / No
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M.DHANDAPANI,J.

Sm/Ssb

Order made in
W.P.(MD)No.11401 of 2023

Dated:
04.05.2023