



W.P.(MD)No.6083 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.08.2023

CORAM

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

W.P.(MD)No.6083 of 2015

Nataraja Gurukul

... Petitioner

vs.

- 1.The Commissioner,
Hindu Religious and Charitable
Endowments Department,
Nungambakkam, Chennai.
- 2.The Assistant Commissioner,
Hindu Religious and Charitable
Endowments Department,
Thiruvanathapuram Road,
Palayamkottai, Tirunelveli District.



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3.Radhakrishnan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the 1st respondent to take action based on the complaint given by the petitioner, dated 23.02.2015 and consequently, to take necessary action to remove the Samadhis (cemetery) laid in the temple premises of Sri Swayambu Lingaswamy Tirukkivil situated at Vuvvari Village, Ramanthapuram Taluk, Tirunelveli District, within the time stipulated by this Court.

For Petitioner	: Mr.C.Jeganathan
For R1 and 2	: Mr.R.Ragavendran Government Advocate
For R3	: Mr.V.Chandrasekar



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ORDER

This writ petition is filed for writ of Mandamus, to direct the 1st respondent to take action based on the complaint given by the petitioner, dated 23.02.2015 and consequently, to take necessary action to remove the Samadhis (cemetery) laid in the temple premises of Sri Swayambu Lingaswamy Tirukkovil situated at Vuvvari Village, Ramanthapuram Taluk, Tirunelveli District, within the time stipulated by this Court.

2. The petitioner claiming himself to be a devotee has filed this writ petition. The 3rd respondent is the Hereditary Trustee of the temple. The claim of the petitioner is that near the temple, the 3rd respondent has



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constructed 2 Samathis, hence, the petitioner is claiming to remove the same.

3. The contention of the 3rd respondent is that the petitioner cannot be considered as devotee, he was earlier working in the said temple and was removed for certain reasons and his removal was confirmed in litigations. Therefore, the present litigation is with intention and motivation and hence prayed to dismiss the writ petition.

4. The 3rd respondent submitted that his great grant fathers were serving as hereditary trustee in the said temple, subsequently his father was serving as hereditary trustee. After the demise of this father the 3rd



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respondent is serving as hereditary trustee. The 3rd respondent's great grand fathers were buried in that area and the said Samathi was constructed 150 years ago. Subsequently, the 3rd respondent's father died in the year 1993 and his mother died in the year 2004. The 3rd respondent's father and mother were also buried in the nearby place. The 3rd respondent further submitted that since it is an accepted custom, they are following the same.

5. After hearing the rival submissions of both sides, this Court is of the considered opinion that the 3rd respondent cannot endlessly bury the dead bodies of their family in the same place. Moreover the High Court through various orders have restrained burying the dead bodies in any



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other place apart from the burial ground. Therefore, the 3rd respondent is restrained from burying any dead body of his family from the date of this order. As far as the existing samathis are concerned, the petitioner shall maintain without any tomb or any other construction. If any other constructions are put up, the same shall be removed.

6. With the above observation, the writ petition is partly allowed.

No costs.

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

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To

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S.SRIMATHY, J

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