



W.A.(MD).No.2155 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 20.12.2023

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

W.A.(MD)No.2155 of 2023

and

C.M.P.(MD)No.17297 of 2023

Sankaranputhoor Oor Vagai Mutharamman Vagai,
Rep. by its President M.Palanivel

.. Appellant

Vs.

1.M.Sankar

2.The Commissioner,

Hindu Religious and Charitable Endowment Department,
No.119, Uthamar Gandhi Salai,
Chennai-34.

3.The District Collector,

Nagercoil, Kanyakumari District.

4.The Assistant Commissioner,

Hindu Religious and Charitable Endowments Department,
Mettu Theru, Vadiweeswaram,
Nagercoil-629 002, Kanyakumari District.

5.Velayutha Perumal

6.The Joint Commissioner,

Hindu Religious and Charitable Endowments Department,



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Tirunelveli Region,
Thiruvananthapuram Road,
Palayamkottai, Tirunelveli District.

... Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the order dated 01.03.2023 made in W.P.(MD).No.1273 of 2023 on the file of this Court.

For Appellant : Mrs.J.Anandhavalli
For R2 to R4 & R6: Mr.S.P.Maharajan,
Special Government Pleader

JUDGMENT

(Judgment of the Court was delivered by **S.M.SUBRAMANIAM,J.**)

This Writ Appeal has been instituted against the order dated 01.03.2023 passed in W.P.(MD)No.1273 of 2023.

2.The appellant is the third party to the Writ proceedings and by securing leave from this Court the present Writ Appeal has been instituted.

3.The learned counsel appearing for the appellant mainly contended that the authorities have initiated action pursuant to the order dated 01.03.2023, which is impugned herein.



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4. We have carefully gone through the impugned order. Paragraph No.5 of the impugned order reads as follows:-

“5. Having regard to the limited nature of relief sought, this Court without expressing any view on the merits of controversies involved in the matter, disposes the Writ Petition on the following terms:-

(i) the concerned authority shall immediately examine the representation dated 03.01.2023 made by the Petitioner and the representation dated 23.02.2023 made by the Fourth Respondent to initiate action for removal of encroachment of the properties of the aforesaid Temple under Section 78 of the Hindu Religious and Charitable Endowments Act, 1959;

(ii) if it is found that any other details or supporting documents is necessary, the deficiencies in that regard shall be informed in writing to the Petitioner requiring the same to be furnished within a time frame of not less than 15 days for the same;

(iii) in the event of not being satisfied with the requirements even thereafter, an enquiry shall be conducted affording full opportunity of personal hearing to the Petitioner and all other persons concerned to explain their position in that regard;

(iv) a reasoned order shall be passed dealing with each of the contentions raised on merits and in accordance with law and the decision taken



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communicated by 30.09.2023 under written acknowledgment; and

(v) the report of such compliance shall be filed before the Registrar (Judicial) of this Court.”

5.The learned Single Judge in the opening lines clearly stated that this Court without expressing any view on the merits of controversies involved in the matter, disposed the Writ Petition, wherein, directions were issued to initiate action based on the materials available on record. Pursuant to the directions issued, further actions were initiated by the competent authorities, which may provide separate cause of action.

6.The learned counsel appearing for the appellant pointed out that notices are issued. If at all such notices are issued, the persons received notices have to submit their explanations / objections along with documents if any and no Writ is entertainable against such show cause notices nor the appellant can adjudicate the validity of the notice in the present Writ Appeal. If at all any actions are initiated under the provisions of Hindu Religious Charitable and Endowments Act, the same is to be defended in the manner contemplated and by availing opportunity to be provided by the competent authorities under the Act.



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7.This being the principles to be followed, we do not find any infirmity in respect of the order impugned herein. Thus, the same stands confirmed. Accordingly, this Writ Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(S.M.S.,J.) & (V.L.N.,J.)
20.12.2023

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

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To

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