



WP(MD)No.29210 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

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R.P.Balanamasivayam

.. Petitioner

vs.

- 1.The Commissioner,
Hindu Religious and Charitable Endowment Department,
Nungambakkam High Road,
Chennai-600 033.
- 2.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
40, Muthusamy Nagar,
Thirupathur Road,
Sivagangai.
- 3.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
21, Vellaikannu Maligai,
Maduraiyar Street,
DD Vinayagar School (Nearby),
Velipatnam,
Ramanathapuram District.
- 4.Narayani,
Special Officer,
Kollangudi Kaliyamman Temple,
Sivagangai Taluk and District.



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5.The Inspector of Police,
Chatrakudi Police Station,
Paramakudi Taluk,
Ramanathapuram District.

6.Karunamoorthy

7.Saravanan

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus, forbearing the respondents from in any manner interfering with the properties and administration of Karuppapillai Samadhi and Subramanya Sami Temple under construction situate in S.No.1, Current S.No.3 of Valanadu Village at Muthukalathur Taluk, Ramanathapuram District, pending disposal of the suit in O.S.No.34 of 2018 on the file of the Subordinate Court, Mudukulathur, Ramanathapuram District.

For Petitioner : Mr.N.Amudha Padmanabhan
Senior Counsel for
M/s.APN Law Associates

For Respondents : Mr.P.Subba Raj
Special Government Pleader
for R1 to R4
Mr.B.Thanga Aravindh,
Government Advocate (Crl.side) for R5



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ORDER

This Writ Petition has been filed for a Mandamus forbearing the respondents from interfering with the properties and administration of Karuppapillai Samadhi and Subramanya Swamy Temple situated in S.No.1, current S.No.3 of Valanadu Village at Muthukalathur Taluk, Ramanathapuram District, pending disposal of the suit in O.S.No.34 of 2018 on the file of the Subordinate Court, Mudukulathur, Ramanathapuram District.

2. The petitioner claims that he is a descendant of one Karuppapillai for whom a Samadhi was established by their family members in the year 1937. During partition, Samadhi was allotted to the petitioner's family for maintenance. According to the learned counsel appearing for the petitioner, Karuppapillai for whom Samadhi was established was neither a saint nor a religious guru. The petitioner has established a Statue of Lord Muruga and is performing pooja in the Temple. He was appointed as Hereditary Trustee of the Temple by the third respondent vide order, dated 24.07.2008. However, by order, dated 24.04.2015, the third respondent has removed the petitioner from the post of Hereditary Trustee, as against which, he has filed a writ petition before this Court in



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W.P(MD).No.14220 of 2015 and also filed a suit in the year 2016 before the Subordinate Court, Paramakudi and it was transferred to the jurisdictional Court, namely, the Subordinate Court, Muthukalathur and the same is pending in O.S.No.34 of 2018. The said Writ Petition was disposed of by this Court on 17.12.2021, directing the petitioner to work out his remedy in the suit which he has already filed. According to the learned Senior Counsel appearing for the petitioner, the suit is at the stage of trial and the plaintiff's side evidence has commenced and the case was posted for cross-examination. While that being so, the second respondent has permitted a third party to put up some construction in the Temple on 21.08.2023, which would certainly affect the case of the petitioner in the suit which is pending in O.S.No.34 of 2018.

3. The learned Senior Counsel appearing for the petitioner further submits that it is the Samadhi of the petitioner's family and the Samadhi is being worshipped by their family and in the event, if a third party is permitted to put up some construction as Ubayatharar, then the right of the petitioner before the suit would be affected. Therefore, the petitioner has filed this Writ Petition for a Mandamus restraining the respondents from interfering with the petitioner's administration till the disposal of the suit in O.S.No.34 of 2018.



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4. The learned Special Government Pleader takes notice for the respondents 1 to 4 and submits that it is a public temple and the petitioner was appointed as Hereditary Trustee by the third respondent in the year 2008 by removing the then Trustee and the petitioner having accepted the appointment made by the third respondent is estopped from questioning the jurisdiction of the third respondent. Thereafter, the petitioner was removed from the post of Hereditary Trustee in view of the allegation levelled as against him that he has cut and removed Seema Karuvalam Trees in the Temple land in the year 2015, for which, two criminal cases have been registered against the petitioner in Crime Nos.9 of 2015 and 59 of 2015. Challenging the same, he has filed a writ petition before this Court in W.P(MD).No.14220 of 2015 and the same was disposed of by this Court on 17.12.2021, with liberty to the petitioner to work out his remedy in the civil suit which has already been filed. Therefore, the petitioner can work out his remedy only before the civil Court and cannot seek the relief for administering the Temple. As on date, the Fit Person appointed by the third respondent in the year 2015 is now administering the Temple and several people are worshipping the Temple. The Temple is under the control of the Hindu Religious and Charitable Endowments Department.



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5. The learned Government Advocate appearing for the fifth respondent submits that the petitioner is facing two criminal cases in Crime No.9 of 2015 and Crime No.59 of 2015. Insofar as Crime No.9 of 2015 is concerned, final report has already been filed before the trial Court on 18.02.2022 and in respect of Crime No.59 of 2015, final report has been taken on file in C.C.No.96 of 2023 and the same is pending before the learned Judicial Magistrate, Paramakudi. He further submits that in view of subsequent development of constructions made by some Ubayatharar, the petitioner has lodged a complaint against them and Ubayatharar has also filed a complaint against the petitioner for having restricted them from putting up a construction and the Hindu Religious and Charitable Endowments Department has lodged a complaint against the petitioner and all these complaints are at the stage of petition enquiry pending.

6. This Court considered the rival submissions made by both sides and perused the materials available on record.

7. The petitioner claims that Karupapillai Samadhi belongs to his family and it was established by his ancestor, namely, Karuppapillai. The petitioner was appointed as Hereditary Trustee by the third respondent in the year 2008. While so,



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there were certain allegations levelled against the petitioner that he has cut and removed Karuvalam trees, based on which, two criminal cases have been registered against him and he was removed from the post of Hereditary Trustee vide order, dated 24.04.2015. Though the learned Senior Counsel has strenuously argued that the third respondent is not having authority to pass the said order dated 24.04.2015, the writ petition filed against the said order in W.P(MD).No.14220 of 2015, was disposed of by this Court on 24.04.2015 with liberty to the petitioner to work out his remedy in the civil suit which he has already instituted before the Sub Court, Muthukulathur. The suit filed by the petitioner is under trial and the evidence has also been recorded on the side of the petitioner.

8. In view of the subsequent development that the suit filed before the trial Court is under trial and the evidence of P.W.1 has already been completed and it is pending for cross-examination, this Court, in the interest of justice, is inclined to dispose of this Writ Petition with a direction to the learned Sub Judge, Mudukulathur, to dispose of the suit in O.S.No.34 of 2018, within a period of eight months from the date of receipt of a copy of this order. The petitioner and the respondents shall co-operate with the trial Court for early disposal of the suit.



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9. It appears that in view of recent construction which has been put up by the third respondent, already three complaints have been lodged before the fifth respondent. Therefore, in order to avoid law and order, the respondents 3 and 4 shall restrain from putting up any construction, till the disposal of the suit.

10. Accordingly, this Writ Petition is disposed. There shall be no order as to costs.

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

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To

1.The learned Subordinate Judge, Muthukulathur.

2.The Commissioner,
Hindu Religious and Charitable Endowment Department,
Nungambakkam High Road,
Chennai-600 033.

3.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
40, Muthusamy Nagar,
Thirupathur Road,
Sivagangai.

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4.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
21, Vellaikannu Maligai,
Maduraiyar Street,
DD Vinayagar School (Nearby),
Velipatnam,
Ramanathapuram District.

5.Narayani,
Special Officer,
Kollangudi Kaliyamman Temple,
Sivagangai Taluk and District.

6.The Inspector of Police,
Chatrakudi Police Station,
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