IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2024

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE K. KUMARESH BABU

W.A.No.1201 of 2020 and

CMP No.14740 of 2020

A.R.Thulasiram Chettiar ... Appellant

Vs.

1. S.Manohar Chettiar

2. The Principal Secretary,
Hindu Religious and Charitable Endowment Department,
St.George Fort, Scretariate, Chennai.

3. The Commissioner,
Hindu Religious and Charitable Endowment Department,
St.George Fort, Scretariate, Chennai 600 034.

4. The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
St.George Fort, Scretariate, Chennai 600 009.

5. The Fit Person/Executive Officer,
Arulmigu Sidhi Budhi Vinayakar and Sudareswarar Temple,
Royapettah, Chennai 600 014.

Substituted for

The Fit Person/Executive Officer,
Arulmigu Mundakaniamman Temple,
Mylapore, Chennai 600 034 in W.P.No.9097/2020

6. Dr.K.J.Renuka

7. Sri Prasana Venkata Narasimha Perumal Temple,
rep. by its Managing Trustee,
A.Madanagopal Chettiar, Perumal Koil Street,
Saidapet, Chennai 600 015.

R7 is substituted vide order of the Court dated 19.09.2023
made in CMP No.19762 of 2023 in W.A.No.1201/2020.

... Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent to set aside the impugned order dated 12.08.2020 in W.P.No.9087/2020 passed by this Court, as null and void.

For Appellant : Mr.Nithyaesh Nataraj
for M/s Nithyaesh and Vaibhav

For Respondents : Mr.L.Dhamodharan for R1 and R7

Mr.Surya for
M/s A.S.Kailasam & Associates for R5

Mr.Vineeth Subramani for R6

Mr.N.R.R.Arun Natarajan,
Spl.Govt. Pleader for R2, R3 and R4

JUDGMENT

(Order of the Court was delivered by D.KRISHNAKUMAR, J.)

This Intra-court Appeal has been filed, challenging the order passed by the learned single judge in W.P.No.9087/2020, dated 12.08.2020.

2. The brief facts leading to the present appeal is as follows.

The above writ petition in W.P.No.9087/2020 was filed by one S.Manohar Chettiar to quash the impugned order passed by the Joint Commissioner, HR & CE Department dated 02.07.2020, wherein, the appellant herein was subsequently impleaded as 6th respondent. The Writ Court has passed the common order in W.P.No.9087 of 2020 and W.P.No.7617/2020, thereby i) closed the W.P.No.7617/2020, as the prayer sought for in the writ petition stands achieved and nothing survives for further adjudication and ii) disposed of the W.P.No.9087/2020 by giving conclusions on the issues as follows.

> 60. In summary, my conclusions on the issues arising from these two writ petitions are as follows.
>
> i) In general, the fact that a temple/religious Institution is denominational in nature will not stand in the way of intervention and enquiry by the HR & CE Department as provided for under Section 23 of the Act provided sufficient

evidence of maladministration/mis-management is set forth by the Department in the show cause notice issued as per the proviso to Section 23 to, prima facie, warrant such intervention. In particular, the allegations levelled against the temple in question under show cause notice dated 18.05.2020 reveal the necessity for intervention and enquiry on the issues raised as well as other issues, if any, that come to light in the course of the afore said enquiry. The preliminary objection raised on the assumption of jurisdiction by the HR & CE Department is rejected.

ii) Arrears of audit fee and annual contribution are liable to be paid by the temple to be quantified by the commissioner denovo in the light of my observations above.

iii) The impugned order dated 02.07.2020 is violative of the principles of natural justice and is set aside conditional upon the petitioner complying with the condition at point (iv) below.

iv) The petitioner shall remit, adhoc, an amount of Rs.10,00,000/0 (Rupees ten lakhs only) towards arrears of annual contribution and audit fee within a period of four weeks from today, conditional upon which the impugned order shall stand set aside for denovo proper enquiry by the Commissioner. The aforesaid amount will be appropriated towards part satisfaction of the arrears of annual contribution and audit fee and will be adjusted against the final demand, once determined.

61. ......

62. Conclusion upon remittance of the sum of Rs.10,00,000/-, as above, impugned order dated 02.07.2020 is set aside. The petitioner will appear for a denovo detailed enquiry before the Commissioner on 14.09.2020. Upon verifying compliance of the direction to remit the amount as aforesaid, the Commissioner will cause enquiry on all aspects of secular management and administration of the temple including but not limited to the finances and accounts as well as ensure that an exhaustive inventory of the Deity's assets and properties are drawn up. The enquiry shall be completed after hearing the

petitioner, K.J.Renuka as well as any other parties as may be deemed necessary and completed within a period of six (6) weeks from the date of first hearing, that is 14.09.2020.

63. With the above directions, W.P.No.9087/2020 stands disposed. The petitioner will not deal with the temple assets, both movable and immovable, in any way, till finalization of the proceedings, now remitted to the file of Commissioner, HR & CE.

2.2. According to the appellant (6th respondent in the writ petition), he is a devotee of the temple and for the show cause notice issued by the HR & CE Department, he had sent a reply notice to the Department/ HR &CE on 05.06.2020 itself, however, without considering the above reply, the impugned order dated 02.07.2020 has been issued. The contention of the appellant is that without considering the facts and circumstances of the case in proper perspective, the learned Single has passed the order and hence this appeal has been filed.

3. On perusal of the records shows that, before filing the instant writ appeal, the original writ petitioner in W.P.No.9087/2020, namely S.Manohar Chettiar had filed an appeal in W.A.No.758/2020, challenging the very same order passed by the learned Single Judge, dated 12.08.2020 in

W.P.No.9087/2020 before the Hon'ble First Bench, and it was disposed of, vide judgement dated 25.09.2021, with the following directions:

> 4. Accordingly, the Writ Appeal is disposed of affirming the order of the learned single Judge, subject to the modification that the direction of deposit of Rs.10 Lakhs, as contained in paragraph 58(iv), shall stand reduced to Rs.3,00,000/- (Rupees three lakhs only), which shall be deposited within four weeks from today. No costs. Consequently, CMP No.1044/2020 is closed.

As against the above order, the Review application No.35/2021 filed by S.Manohar Chettiar, before the Hon'ble First Bench was also dismissed on 02.03.2021.

4. As stated supra, the writ appeal in W.A.No.758/2020 filed by the writ petitioner/ S.Manohar Chettiar came to be disposed of with some modification and the review application filed by him as against the writ appeal also came to be dismissed. It is reported before this court that, pursuant to the order passed by the learned single Judge, proceedings have been initiated by the HR & CE Department with regard to the maladministration /mis management as against the Trustees; enquiry was conducted; and report has also been submitted by the HR & CE Department. In such circumstances, the appellant, who is a devotee, has no

legal right to challenge the order passed by the learned Single Judge and hence, the writ appeal is liable to be dismissed.

5. Accordingly, this writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(D.K.K.J.) (K.B.J.)

05.04.2024

Internet: Yes/No
Index : Yes/No
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To

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2. The Commissioner,
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   St.George Fort, Scretariate, Chennai 600 034.

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5. The Fit Person/Executive Officer,
   Arulmigu Mundakaniamman Temple,
   Mylapore, Chennai 600 034 in W.P.No.9097/2020

6. A.Madanagopal Chettiar,
   Managing Trustee of
   Sri Prasana Venkata Narasimha Perumal Temple,
   Perumal Koil Street, Saidapet, Chennai 600 015.

D.KRISHNAKUMAR, J.
and
K. KUMARESH BABU, J.

mst

W.A.No.1201 of 2020

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