IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2024

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.No.16553 of 2024

Sri Kumaar Dev Mutt
Represented by its Madathipathi
Rathina Velayutha Pandara Sannadhigal
Pennadam Salai,
Viruthachalam Taluk,
Cuddalore District ...Petitioner

Vs

1.The Commissioner
Hindu Religious and Charitable Endowment Department
Nungambakkam High Road,
Nungambakkam,
Chennai.

2.The Sub Registrar,
Thiyagaraya Nagar,
Chennai District. ...Respondents

PRAYER :-Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, by calling for the records of the second respondent in refusal check slip dated 09.05.2024 and quash the same as illegal and consequently direct the second respondent to register the document number TP/181080972/2024 dated 09.05.2024.

For Petitioner : Mr.Mr.Suresh Kumar for
M/s.K.M.Vijayan Associates
For Respondents : Mr.N.R.R.Arun Natarajan (For R1)
Special Government Pleader
: M/s.C.Meera Arumugam(For R2)
Additional Government Pleader

ORDER

The present Writ Petition has been filed seeking to quash the refusal check slip dated 09.05.2024 issued by the second respondent and for consequential direction to the second respondent to register the document number TP/181080972/2024 dated 09.05.2024.

2.The facts which has preceded the filing of the above Writ Petition is herein below set out.

The petitioner is a private institution and trust situated at Thuraiyur having branches at Viruthachalam Taluk, Cuddalore District. Though it is the contention of the petitioner that though the institution is called as a mutt it does not partake the character of a mutt as provided under the provisions of the Tamil Nadu Hindu Religious and Charitable Endowment Act (herein after referred to as HR & CE Act). The institution is claimed to have been founded by a mystic known as Adi Sivaprakasar. The petitioner would submit that the person who has sworn to the affidavit filed in support of the Writ Petition is the head of this institution. It is his contention that certain properties were given to the original founder by the Ex-Zamindar of Thuraiyur and this gift inscribed on a Copper plate. It was specifically stated that the properties are given to the institution only for the purpose of doing guru pooja in the memory of Adi Sivaprakasar who had been interned at Thuraiyur. Thereafter, properties had been purchased by the Institutional Heads of the petitioner from the income derived from the earlier properties which had been given to the founder. In the year 1955, the Tamil Nadu Hindu Religious and Charitable Endowment Board wanted to take control of the institution and proceedings were initiated before the District Court, Tiruchirappalli, followed by an appeal before this Court in A.S.No.192 and 193 of 1955. In these proceedings it had been clearly stated that the institution was a private institution and the head was holding the property as his own. Though this decision was rendered under earlier HR & CE Act, 1951 it continues to hold fort. The petitioner would submit that the head of the mutt is perfectly capable and legally entitled to dealt with the properties of the mutt. The petitioner's mutt has been both acquiring and selling properties for the welfare of the mutt. Once again when the petitioner has presented a sale deed for registration by the impugned order the request has been turned down. Therefore the petitioner is before this Court.

3.A detailed counter affidavit has been filed by the first respondent in which it has been stated that proposals were sent by the Assistant Commissioner to the Commissioner on 14.03.2014 for bringing the mutt under the control of the HR & CE Department. W.P.(M.D).No.1057 of 2018 was filed by one Radhakrishnan before the Madurai Bench of the Madras High Court alleging mismanagement and mishandling of the properties belonging to the Sengole Madam, Tirunelveli District. In these proceedings the bench had impleaded many of the mutts in Tamil Nadu and the petitioner mutt is also one among the same. The impleadment of the petitioner was not challenged by them. It is further stated that the Commissioner by his proceedings in R.O.S.No.3373/2020/E2 dated 06.07.2021 has brought the mutt under the control of HR & CE department and included it in the list of small temples in page No.266 column No.3. The Commissioner in the said order had directed the Assistant Commissioner, Cuddalore to send a report to the Joint Commissioner to enable the Joint Commissioner to declare the mutt as Religious Institution under Section 63 (a) of the Act. Proceedings have accordingly been initiated and enquiry notice has also been issued to the petitioner's mutt. This enquiry notice has not been challenged by the petitioner. On the contrary, it is the further contention of the respondent that the order in the earlier suit has been passed prior to the enactment of the HR & CE Act, 22 of 1959. As per the amendment, Section 6 (18) has been inserted in which a mutt is also defined as a “Religious Institution”. A mutt has been defined in Section 6 (13) of the Act. Therefore, they would submit that once the mutt comes within the purview of the Act as per Section 6 (18) allocations of the property cannot be made without the consent or no objection from the temple concerned. Therefore, he would submit that the Writ Petition has to necessarily be dismissed and the petitioner directed to obtain objection from the second respondent.

4.Heard the learned counsels on either side. The learned Government Advocate takes notice on behalf of respondents.

5.The contention of the respondentS that the petitioner's mutt comes within the definition of the term religious institution appears to be correct in the light of definition that is now given to a religious institution under the newly inserted Section 6 (18) of the Act which reads as follows:-

Religious institution means the math, temple of specific endowment and includes:- inserted/substituted by Tamil Nadu Act 26 of 2012, which came into force on 27.06.2012.

i)A samadhi or brindhavan; or

ii)Any other institution established or maintained for a religious purpose.

6.The Section clearly states that religious institution means a mutt, temple or specified endowment. What is the definition of a mutt has been given in Section 6 (13) which also reads as follows:-

"math" means a Hindu religious institution with properties attached thereto and presided over by a person, the succession to whose office devolves in accordance with the direction of the Founder of the institution or is regulated by usage and

i)whose duty it is to engage himself in imparting religious instruction or rendering spiritual service; or

ii)who exercises or claims to exercise spiritual headship over a body of disciples;

and include places of religious worship or instruction which are appurtenant to the institution;

That apart the petitioner has not challenged its impleadment in W.P.(MD).No.1057 of 2018 nor to the proceedings initiated to declare the petitioner's mutt as a Religious Institution. Therefore, taking into account the nature of the petitioner mutt and considering the fact that the petitioner mutt is a religious institution and the property that is now sought to be alienated belongs to a religious institution, the petitioner has to necessarily obtain a no objection from the first respondent. Therefore, I see no reason to interfere with the impugned order.

7.Accordingly, the present Writ Petition is dismissed. No costs.

18.12.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non Speaking Order
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To
1.The Commissioner
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Nungambakkam High Road,
Nungambakkam,
Chennai.

2.The Sub Registrar,
Thiyagaraya Nagar,
Chennai District.

P.T.ASHA, J,

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