IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order Reserved on 14.11.2024	Order Pronounced on 20.11.2024

CORAM

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR
AND
THE HONOURABLE MR. JUSTICE P.B.BALAJI

W.A.No.3041 of 2024
and C.M.P.No.22822 of 2024

Arulmighu Pillaiyar Mariamman Thirukovil,
Rep. by its Dharmakartha,
B.R.Arul Prakasam,
Belukurichi,
Senthamangalam Taluk,
Namakkal District. ..Appellant

Vs.

1.The Commissioner,
Hindu Religious & Charitable Endowment Department,
119, Uthamar Gandhi Road,
Thousand Lights West,
Nungambakkam,
Chennai – 600 034.

2.The District Revenue Officer cum Land Acquisition Officer,
Chennai-Kannyakumari Industrial Corridor Project,
Plot No.74, Vijayaragavan Street,
Jakir Ammapalayam,
Salem – 636 302. ..Respondents

PRAYER: The Writ Petition filed under Clause 15 of the Letters Patent, praying to set aside the order dated 28.09.2022 made in W.P.No.26015 of 2022 and allow the writ appeal.

For Appellant : Mr.N.Manoharan

For Respondents
For R1 : Mr.NRR.Arun Natarajan
Special Government Pleader

For R2 : Mr.Vadivelu Deenadayalan
Additional Government Pleader

JUDGMENT

(Judgment of the Court was made by P.B.BALAJI, J.)

The Writ Petitioner, aggrieved by one of the directions issued by the Writ Court while disposing of W.P. No.26015 of 2022 by order dated 28.09.2022, is the appellant before us.

2. We have heard Mr.N.Manoharan, learned counsel for the appellant and Mr.N.R.R.Arun Natarajan, learned Special Government Pleader for the HR & CE Department/1st respondent and Mr.Vadivelu Deenadayalan, learned Additional Government Pleader for the second respondent.

3. The learned counsel for the Appellant, Mr.N.Manoharan would submit that the appellant Temple is a denominational Temple established by

Kongu Nattu Gounder Community, being residents of Belukurichi Village and ardent worshippers of Mariyamman, Vinayagar and Sangiliswamy Temple. According to the learned counsel for the appellant, the Temples were congregated 300 years back and in O.S. No.404 of 1990, the learned Additional District Munsif, Namakkal granted religious denominational status to the appellant Temple and also granted a consequential permanent injunction against the Hindu Religious and Charitable Endowment Department (HR & CE) Department. An Appeal was filed in A.S. No.1 of 2019 before the learned Sub Judge, Namakkal and the said Appeal was dismissed for default on 05.10.2004 and therefore, according to the learned counsel for the appellant, the decree declaring the religious and denominational character of the appellant Temple has attained finality. He would therefore submit that the first respondent had no right to interfere with the affairs of the Management of the appellant Temple. Whileso, in order to claim the land acquisition compensation amount, the appellant Temple had given its representation on 27.08.2022. As no orders were passed on the said representation, the appellant was filed the Writ Petition in W.P. No.26015 of 2022, the Writ Court after hearing the parties, pass the following order:

"(1) The second respondent is directed to deposit the entire compensation amount in the name of the temple.

> *(2) The petitioner is directed to withdraw the interest amount and use the same for the welfare of the temple and submit the accounts annually before the Assostant Commissioner, H.R. & C.E Department."*

4. The learned counsel for the appellant submits that insofar as the first direction, the appellant can have no quarrel, because the Writ Court has directed the compensation amount to be paid only to the account of the Temple. However, Mr.N.Manoharan, learned counsel for the appellant would take strong objection to the second direction, especially, the part requiring submission of accounts annually before the Assistant Commissioner, HR & CE Department, placing reliance on the decisions of the Hon'ble Supreme Court in *R.Murali and others Vs Kanyaka P.Devasthanam and others,* reported in *2005 (4) CTC 234* and the Division Bench Judgment of this Court in *Madurai Saurashtra Sabha represented by its Honarary Secretary Vs. State of Tamil Nadu and others,* reported in *2007 (2) CTC Page 11*.

5. The learned counsel for the appellant would submit that once a decree of declaration that the appellant is a religious denomination, it enjoyes protection under Article 26 of the Constitution of India and also from interference in its administration by the Authorities under the Tamil Nadu Act. The Courts have also further held that the said right guaranteed under

Article 26 of the Constitution of India has been expressly protected even under Section 107 of the HR & CE Act by making inapplicable other provisions of the Act including Section 64 to Institutions of religious and charitable nature or religious denomination.

6. The learned counsel for the first respondent Mr.N.R.R.Arun Natarajan would place reliance on the Division Bench Judgment of this Court in W.A. No.1201 of 2020 to which one of use (Mr.Justice.D.Krishnakumar was a party), where the Division Bench relying on Section 23 of the HR & CE Act held that even in respect of a religious denominational Temple, it would be open to the HR & CE Department to enquire into the matter when there is sufficient evidence of mal- administration/mis-management. He would therefore, placing reliance on the above decision, submit that there is no error or infirmity in the order of the Writ Court.

7. The law laid down by the Hon'ble Supreme Court and also the Division Bench of this Court clearly hold that even the Tamil Nadu Hindu Religious Charitable Endowments Act, 1959 by incorporating Section 107 recognises the protection afforded to religious and denomination Temple under 26 of the Constitution of India. In the present case, admittedly, the first

respondent was a party to the suit in O.S. No.404 of 1990. The challenge to the said decree also was unsuccessful with the Appeal being dismissed way back on 05.10.2004. Therefore, though Mr.N.R.R.Arun Natarajan, learned Special Government Pleader for HR & CE Department, appearing for the first respondent would submit that the first respondent Department has a right to look into the affairs of the appellant Temple, in view of the express provision incorporated by way of Section 107 read with Article 26 of the Constitution of India and the decree passed in O.S. No.404 of 1990 dated 11.11.1998, it is clear that the first respondent has no say in the affirs and management of the appellant Temple. Infact, rightly, the Writ Court has also directed the entire compensation amount to be deposited only in the name of the Appellant Temple. However, the Writ Court has proceeded to issue a further direction that the Writ Petitioner/appellant is directed to withdraw the interest amount and use it for the welfare of the Temple and submit accounts annually before the Assistant Commissioner, HR & CE Department. The part of the second direction issued by the Writ Court is liable to be set aside, in view of the settled legal position as discussed herein above.

8. After careful consideration of the submission advanced by the learned counsel on either side, we have no hesitation in holding that the direction issued by the Writ Court, directing the Writ Petitioner/Appellant to

submit accounts annually before the Assistant Commissioner, HR & CE Department cannot be sustained and is liable to be set aside. However, in view of the power under Section 23 of HR & CE Act, we make it clear that it is always to the first respondent/Department to launch any enquiry proceedings on being provided with sufficient and satisfactory material of any mis-management or mal-administration by the appellant Temple. However, in the absence of such strong prima facie evidence of mal-administration or mis-management, it is not necessary for the appellant Temple to submit accounts to the first respondent Department. It is however, always open to the appellant to voluntarily submit accounts to avoid any such accusations of mal-administration or mis-management. However, such submission of accounts is only voluntary and cannot be thrust upon the writ appellant. In the light of the above, we pass the following order:

The Writ Appeal is allowed, giving liberty to the appellant to submit accounts to the first respondent/Department, if it deems fit and proper in the circumstances of the case and also giving liberty to the first respondent/Department to invoke power under Section 23 of the HR & CE Act, if the Department has any strong prima facie evidence or material with regard to any mis-management or mal-administration of the appellant Temple.

9. With the above observation, the Writ Appeal is allowed. Consequently, connected Miscellaneous Petition is also closed. No costs.

(D.K.K,J.) & (P.B.B,J.)

20.11.2024

Index : Yes/No
Speaking Order/Non-Speaking Order
rkp

To
1.The Commissioner,
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