



W.P.No.19758 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2024

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THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

W.P.No.19758 of 2017

and

WMP.No.21334 of 2017

A/M. Muthukumarasamy Temple,
Rep. by its Executive Officer,
Kumarakoil Street, Parangipettai,
Cuddalore District, Pin – 608 502.

...Petitioner

Vs.

1. The Commissioner,
Hindu Religious and Charitable Endowment Board,
Nungambakkam, Chennai – 600 034.
2. The Joint Commissioner,
Hindu Religious and Charitable Endowment Board,
Villupuram.
3. The Tahsildar,
Bhuvanagiri, Cuddalore District.
4. The Executive Officer,
Parangipettai Town Panchayat,
Parangipettai, Cuddalore District – 608 502.
5. Inspector of Police,
Parangipettai Police Station,
Parangipettai, Cuddalore District – 608 502.

...Respondents



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Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the 4th respondent in his proceedings in Na.Ka.A1/218/2017 dated 21.07.2017 and quash the same.

For Petitioner : Mr.A.Muthukumar

For Respondents : Mr.S.Ravichandran, AGP, for R1 & R2
: Mr.LSM.Hasan Fizal, AGP, for R3
: Mr.M.Loganathan, for R4
: Mr.L.Baskaran, GA(Crl. Side), for R5

ORDER

This Writ petition has been filed seeking quashment of the proceedings of the 4th respondent dated 21.07.2017 in Na.Ka.A1/218/2017.

2. The case of the petitioner is that, the petitioner temple is an ancient temple which is under the control of the 1st and 2nd respondents. The petitioner's temple is one among the group of six temples and other five temples have no income and the same were maintained only from the income of the petitioner's temple. The petitioner temple owns 1 acre 70 cents in S.No.56/15 and the same is situated on the banks of river Velar and it is on the Santhaikadai Street. The petitioner temple has leased out a portion of the above mentioned property to poor people for their residential



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purposes and the petitioner temple has no other income except the meagre rent collected from the poor people who have put up residential buildings and from the shops which were put up during weekly shandy which is held on every Thursday in the above said petitioner temple property and the income generated from conducting the weekly shandy is used for the benefit of the temple. While so, all of a sudden, alleging that the weekly shandy conducted in the petitioner temple has caused law and order problem, the 4th respondent, vide impugned proceedings dated 21.07.2017 ordered for transfer of weekly shandy conducted in the property owned by the petitioner temple to S.No.638/3 from 01.07.2018 onwards and further ordered for payment of Rs.6,49,000/-. Challenging the same, the petitioner has come up with this Writ petition.

3. Learned counsel for the petitioner submitted that, though the 4th respondent has every power to auction the property in S.No.638/3 which was constructed under Anna Marumalarchi Scheme, however, it has no power to abandon the weekly shandy conducted in the petitioner temple property or to transfer the same to some other place and thereby, the present impugned order passed by the 4th respondent has to necessarily be interfered



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with. Learned counsel further submitted that, this Court may issue necessary direction to the District Collector to conduct enquiry between the petitioner and the 4th respondent and pass appropriate orders.

4. Per contra, the learned counsel appearing on behalf of the 4th respondent submitted that, only upon receipt of complaints/representations from the locality people stating that, due to overcrowding of people and increase in number of shops in the weekly shandy conducted in the petitioner's property, there is disruption to the residents and the same is causing huge traffic in the said area, the 4th respondent passed the present impugned order, based on the resolution passed in tripartite talks held in the presence of the Tahsildar and the same was passed only in the interest of the public and the same does not warrant interference of this Court and accordingly, he prayed for dismissal of this Writ petition.

5. On the above said contentions, heard learned counsel appearing on behalf of the respective respondents 1, 2, 3 & 5 and perused the material documents placed on record.



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6. On a perusal of the materials available on record it is evident that, the 4th respondent, without any authority and without any jurisdiction passed the present impugned proceedings ordering for shifting the weekly shandy conducted in the petitioner temple property to the property comprised in S.No.638/3, which is *per se* illegal and on the short point of jurisdiction, this Court is inclined to set aside the impugned proceeding of the 4th respondent.

7. Accordingly, the impugned order dated 21.07.2017 passed by the 4th respondent is set aside and the matter is remanded to the District Collector, Cuddalore for fresh consideration and the District Collector, Cuddalore shall conduct enquiry between the petitioner, the 4th respondent and other aggrieved persons, if any and pass appropriate orders in respect of conducting weekly shandy either in the petitioner temple property or any other suitable Government land within a period of eight weeks from the date of receipt of a copy of this order.

8. With the above observations and directions, this Writ petition stands allowed. No costs. Consequently, the connected Miscellaneous petition is closed.

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9. Registry is directed to mark a copy of this order to the District

Collector, Cuddalore.

03.09.2024

skt

NCC : Yes/ No
Speaking Order : Yes/ No
Index : Yes/ No

To

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M.DHANDAPANI, J.

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