



W.P.(MD) No.2682 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.04.2024

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.2682 of 2024

and

W.M.P.(MD) Nos.2973 & 6620 of 2024

P.Saminathan

... Petitioner

Vs.

- 1.The Commissioner,
Tamil Nadu Hindu Religious and
Charitable Endowments Department,
Nungambakkam, Chennai.
- 2.The Additional Commissioner,
Thirupanikuzhu,
Tamil Nadu Hindu Religious and
Charitable Endowments Department,
Nungambakkam, Chennai.
- 3.The Joint Commissioner,
Tamil Nadu Hindu Religious and
Charitable Endowments Department,
Madurai.
- 4.The Hereditary Trustee,
A/M. Suyambhu Sri Bhoomibalagan Temple,
Malvai Village, Lalgudi,
Trichy - 621652.

... Respondents



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Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Mandamus directing the first respondent to survey and verify whether the temple pond land situated in Malvoi Village in S.No.371 is constructed as per the approved plan based on the petitioner's representation dated 11.12.2023.

For Petitioner : M/s.A.Niveditha

For R1 to R3 : Mr.P.T.Thiraviam
Government Advocate

For R4 : Mr.R.Murali

ORDER

The petitioner has filed this Writ Petition for issuance of a Writ of Mandamus directing the first respondent to survey and verify as to whether the temple pond situated in Malvoi Village in S.No.371 is constructed as per the approved plan by considering the petitioner's representation dated 11.12.2023.

2. At the time of admission on 08.02.2024, this Court granted an interim injunction restraining the respondents from proceeding further with the construction of the temple pond which was lying in a dilapidated condition.



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3. According to the petitioner, the construction of the temple pond that is being carried out by the fourth respondent is in cross violation of Rule 16 of the Management and Preservation of Religious Institution Rules, 1964 and in deviation of the approved plan of the Assistant Commissioner of the Hindu Religious and Charitable Endowments Department, Trichy along with committee. It is specific submission of the learned counsel for the petitioner that as per the approved plan, the dimension of the temple pond has to be 41m x 41m, whereas, the dimension of the actual construction is 41m x 39m. Further, the learned counsel for the petitioner would draw attention of this Court to Sub-Rule (2) of Rule 16 of the Management and Preservation of Religious Institution Rules, 1964 which reads as under:

16. Deviations from plan and estimate not to be made without sanction. -

(1) A trustee or the Board of Trustees, as the case may be, shall not, except with the written sanction of the appropriate authority, exceed the expenditure sanctioned or deviate from the plan and estimate approved by the said authority.

(2) A trustee or the Board of Trustees, as the case maybe, shall not permit any worshipper or other person to commence the execution of any work or deviate from the plan approved by the appropriate authority without the permission of that authority.



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4. The learned Government Advocate for the officials of the H.R & C.E. Department i.e., respondents 1 to 3 would refer to a communication dated 15.02.2024 sent by the Assistant Commissioner, H.R. & C.E. Department to the Divisional Engineer, H.R. & C.E. Department after this Writ Petition came to be admitted. It is submitted that steps have been taken to survey the construction that is being put up by the fourth respondent.

5. The learned counsel for the fourth respondent would draw attention of this Court to the FMB Sketch filed along with this Writ Petition. He submits that at the time of construction, it was noticed that there were other structures put up by the Village Panchayat and a Library and therefore, there has been a slight deviation by reducing the dimension to 49m x 39m from 41m x 41m.

6. The learned counsel for the fourth respondent would submit that the construction of temple pond has now been stalled pursuant to the interim order dated 08.02.2024 passed by this Court. It is further submitted that the subject temple is not governed by any Agama and is an Ayyanar temple, where, there is only worshipping of deities. It is



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therefore submitted that the interim injunction is causing great prejudice as already about Rs.96 lakhs has been spend for construction of the temple pond which was in a dilapidated condition.

7. It is further submitted that the amount for the construction is not from the H.R. & C.E. Department, but, by a devotee who took a personal interest in restoring the pond which was crying for attention for a very long time. It is submitted that no prejudice will be harm to the petitioner if there is any minor deviation.

8. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Government Advocate for the first to third respondents and the learned counsel for the fourth respondent.

9. The petitioner is merely a devotee of the temple. He has filed this Writ Petition and stalled the construction by securing the interim injunction on 08.02.2024. The photographs that have been produced before this Court indicate that most of the work has already been completed. Therefore, there is no justification in stalling the construction of the temple pond which was undertaken by the fourth respondent in a



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minor deviation of approval on the ground that the same is contrary to

Rule 16 of the Management and Preservation of Religious Institution

Rules, 1964. Construction involves the plundering and utilization of scarce natural resources namely, gravel, stones, cement, sand, etc. They cannot be allowed to be wasted either by stalling the construction or by asking the fourth respondent to remove the deviation. In any event, deviation is a minor deviation and does not prejudice either public or the official respondents.

10. The petitioner cannot be said to be prejudiced by the construction which has been put by the fourth respondent on the fund/donation given by a devotee which has been approved by the H.R. & C.E. Department. The petitioner is also unable to provide any fund to meet out the loss that would be caused on account of either stalling of the construction or on account of any rectification of minor deviation in the construction of the temple pond. That apart, the temple pond is not required to be constructed in accordance with any of the ancient principles governing the construction of temple or temple pond. Therefore, there are no merits in the present Writ Petition and this Writ Petition is liable to be dismissed.



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WEB COPY 11. Accordingly, this Writ Petition is dismissed. No costs.

Consequently, connected Miscellaneous Petitions are closed.

05.04.2024

Index: Yes/ No

Neutral Citation: Yes / No

Speaking Order / Non-Speaking Order

JEN

Copy To:

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- 2.The Additional Commissioner,
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Tamil Nadu Hindu Religious and Charitable Endowments Department,
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C.SARAVANAN, J.

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