



W.P.(MD) No.12318 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.12318 of 2024

and

W.M.P.(MD) Nos.10916, 10917 of 2024

1.M.Thiruppathi,
2.M.Nagaraj,
3.M.Maheswaran,
4.M.Anandhan,
5.M.Saravanan,
6.P.Natarajan,
7.T.Nagaraj,
8.N.Kumaresan.

... Petitioners

Vs.

1.The Principal Secretary / Commissioner,
Hindu Religious and Charitable Endowments Department,
Nungambakkam,
Chennai -600 034.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Madurai.

3.The Executive Officer,
Arulmigu Mahadevasamy Thirukovil,
Rajamill road,



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WEB COPY Madurai.

4.V.Sivan,
5.P.Ariyanayagam,
6.R.Chinnadurai @ Veerapathiran,
7.Muthukaruppan.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus to direct the 1st respondent to not to conduct any festival till the disposal of the O.A.No.28 of 2023 and subsequently, direct the 3rd respondent to stay all the proceedings regarding the temple till the disposal of the O.A.No.28 of 2023.

For petitioners : Mr.B.Bhuvaneshvari

For respondents : Mr.P.Subbaraj
Special Government Pleader for R1 & R2
Mr.S.Manohar for R3

ORDER

The petitioners have approached this Court for a Writ of Mandamus to restrain the first respondent to not to conduct any temple festival pending disposal of O.A.No.28 of 2023 filed by the petitioner for declaring themselves as the Hereditary Trustee under Section 63(b) of TNHR&CE Act, 1959.



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2. The learned counsel for the petitioners would submit that the fourth respondent namely, P.Sivan had filed a Writ Petition before this Court in W.P. (MD) No.24790 of 2023 and has secured an order behind the back of the petitioner, whereby, a Kumbhabisekam Committee was constituted for holding Kumbhabisekam as the Kumbhabisekam of the temple was last held in the year 2000.

3. It is submitted that if the petitioners, who have also filed suit in O.S.No. 829 of 2017 before the District Munsif Court, Madurai, were not impleaded in the aforesaid proceedings before this Court. It is submitted that if the petitioner were impleaded, these petitioners would have made their submissions before this Court, before the aforesaid Writ Petition in W.P.(MD)No.24790 of 2023 was disposed.

4. The learned counsel for the petitioners would submit that the temple in question was situated on the land that belonged to the great grandmother of the petitioners herein namely, Chokkayee Ammal, which was settled by her paternal uncle's son Venkatachalam Pillai, who, in turn, had executed a gift settlement



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WEB COPY deed on 21.08.1953 in favour of her son namely, Mupillianpillai, who is the grandfather of the petitioners herein.

5. It is submitted that the temple festival, without involvement of the petitioners' family, who are the true owners of the temple, is unfair and therefore, warrants interference.

6. The learned counsel for the third respondent/Executive Officer would submit that in respect of the temple, there is a scheme decree passed in O.A.No.20 of 1970 by the Deputy Commissioner and since there were disputes between petitioners and other devotees from three other villages, who worship the deity in the temple, the third respondent was appointed as a fit person by the TNHR&CE Department as early as in the year 2000.

7. It is submitted that the suit, which has been filed by the petitioners, has nothing to do with the temple land.

8. In this connection, the learned counsel for the third respondent would



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draw the attention to the relief sought for in the said suit and the schedule wherein, it is clear that there is no relief in respect of the temple or temple land.

9. That apart, the learned counsel for the third respondent would further submit that the Kumbhabisekam has to be held once in 12 years and since the Kumbhabisekam was held at last in the year 2000, the Court has constituted the Kumbhabisekam Committee headed by the third respondent, so that the Kumbhabisekam can be held.

10. It is further submitted that on 12.07.2024, Palalayam Ceremony, which is a precursor for commencement of construction and renovation of the temple is scheduled to be held on 12.07.2024, pursuant to the directions of this Court in W.P.(MD)No.24790 of 2023 dated 19.03.2024.

11. It is noticed that against the order passed by this Court in W.P.(MD)No. 24790 of 2023 dated 19.03.2024, the seventh respondent/Muthukaruppan, who was sixth respondent in the aforesaid Writ Petition has also filed a Writ Appeal before the Hon'ble Division Bench in W.A(MD) No.906 of 2024. It appears that



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no interim order has been secured from the Hon'ble Division Bench and the case is pending before the Hon'ble Division Bench of this Court.

12. That apart, it is submitted that the prayer of the petitioners is strange as no devotee would object to the Kumbhabisekam of the temple, particularly, when the Kumbhabisekam has not taken place for the last 24 years. Hence, it is submitted that this Writ Petition is liable to be dismissed as misconceived by directing the petitioners to pursue the remedy in O.A.No.28 of 2023 and in the so called suit in O.S.No.829 of 2017.

13. The learned Special Government Pleader for the official respondents/respondents 1 and 2 has also reiterated the submissions made by the counsel for the third respondent.

14. At this stage, the learned counsel for the petitioners would submit that the petitioners will not stand in the way of Kumbhabisekam and Palalayam, which is proposed to be held on 12.07.2024, subject to the petitioners being given a liberty to contribute the funds for the proposed Kumbhabisekam.



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15. Considering the arguments advanced by the learned counsel for the petitioners and the learned Special Government Pleader for the respondents 1 and 2 and also the learned counsel for the third respondent, this Court is of the view that this Writ Petition to not to conduct Kumbhabisekam cannot be entertained, particularly, in the light of the fact that the locus of the petitioner in O.A.No.28 of 2023 as a Hereditary Trustee, is yet to be determined.

16. That apart, according to the petitioners, the petitioners are pursuing the remedy in O.S.No.829 of 2017 before the District Munsif Court, Madurai.

17. It is for the petitioners to expedite the proceedings both before the District Munsif Court, Madurai and before the Joint Commissioner in O.A.No.28 of 2023. The request of the petitioners that the petitioners should also be given liberty to make contribution for the Kumbhabisekam, can be considered only if suitable applications are filed for modification of the order dated 19.03.2024 and placed before the **Hon'ble Mr. Justice B.Pugalendhi**, who had passed the aforesaid order.



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18. This Writ Petition is, therefore, dismissed, with the above liberty to the petitioners to move suitable application for modification or clarification of the order dated 19.03.2024 in W.P.(MD) No.24790 of 2023, since it appears that the order has been secured in absence of the petitioner. No costs. W.M.P(MD).No. 10916 of 2024 is allowed. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet : Yes / No
apd

12.06.2024

To

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Chennai -600 034.

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C.SARAVANAN, J.

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