



W.P.(MD) No.12613 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

**W.P.(MD) No.12613 of 2024
and
W.M.P.(MD) Nos.11228 & 11230 of 2024**

M.Prabhakaran

... Petitioner

Vs.

1.The Executive Officer,
Arulmigu Suyambu Saneeswarar Bahavan Thirukoil,
Kuchanoor, Theni.

2.The Fit Person/Thakkar,
Arulmigu Suyambu Saneeswarar Bahavan Thirukoil,
Kuchanoor, Theni.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records pertaining to the impugned tender notification dated 03.06.2024 in Fasili 1434 auction/tender notification (first call) of the respondents and quash the same.

For petitioner : Mr.J.Anandkumar

For respondents : Mr.V.Chandrasekar



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ORDER

The petitioner has come in the eleventh hour challenging the impugned auction notice dated 03.06.2024, which proposes the auction of the right to sell articles within the premises of the temple. The proposed auction is scheduled to be held on 14.06.2024 that is tommorrow. The last date for the bid is also 14.06.2024.

2. The petitioner submits that the auction is clearly without jurisdiction as two of the trustees of the temple had earlier moved a Writ Petition in W.P. (MD).No.20349 of 2023, wherein, the prayer was for a Writ of Declaration, declaring the 4th respondent therein as fit person in Arulmigu Suyambu Saneeswarar Thirukoil, Kuchanoor, Theni District is illegal and violation of the judgment of the Hon'ble Apex Court reported in 2014 (1) CTC 763 and also the conditions for appointment of Executive Officers Rules 2015 and consequently direct the respondents 1 to 4 therein hand over the administration of the said temple to the hereditary trustees.

3. It is submitted that by an order dated 03.11.2023, this Court has



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allowed the Writ Petition and has directed the respondents herein to hand over the charges to the Board of Trustees of the temple. Relevant portion of the order reads as under:

25. Therefore, from the judgments cited supra it would be evident that the Executive Officer and Fit Person cannot be beyond the period of five years at time. In the present case the Executive Officer and Fit Person are in the management for more than 20 years and hence they cannot be allowed to continue. Hence the respondents ought to hand over the charge to the Board of Trustees. Hence the 1st petitioner along with the other trustees is entitled to get the management. Even though only one trustee is before this Court, this Court is directing the respondents to hand over the charge to the Board of Trustees with a period of four weeks from the date of receipt of the copy of the order. As far as the claim of the 2nd respondent is concerned, he is entitled to be considered after the disposal of the stay application or after disposal of the writ appeal pending in W.A.(MD)No. 1509 of 2023.

26. This Court fondly hopes that this order would be the beginning to end the prolonged litigation between the Board of Trustees and respondents and also among the Board of Trustees. And Kuchnoor Saneswarar becomes "Santha Saneswarar".

4. It is submitted that despite aforesaid order, no steps have been taken to hand over the temple back to the trustees of the temple. It is further submitted that the respondents have merely filed an appeal before the Hon'ble Division



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Bench of this Court in W.A.(MD)No.2161 of 2023.

5. It is submitted that no interim order has been secured by the respondents in the aforesaid appeal.

6. It is submitted that the Board of Trustees, who had filed the Writ Appeal have refrained from filing contempt petition and had given under taking, assuming that the Writ Appeal will be disposed of in an earlier date. It is submitted that the appeal has not been taken up for disposal by the Hon'ble Division Bench. It is submitted that pending disposal of the Writ Appeal, the respondents have issued the impugned auction.

7. The learned counsel for the respondents would submit that the articles have to be sold in the temple premises in a regular manner, as otherwise there could be chaos in the temple premises as devotees may not get the necessary pooja articles and unauthorised persons may end up selling articles, thereby, causing of lose to the temple.



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8. That apart, it is submitted that the order passed by the Court on 03.11.2023 in W.P(MD).No.20349 of 2023 is subjudice and is pending final order in W.A.(MD)No.2161 of 2023. It is submitted that temple administration cannot be left to the petitioner herein or any of the other trustees, who were suspended for their illegal activities.

9. Having considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the respondents and considering the fact that the petitioner has approached with the prayer in quashing the proposed auction at the eleventh hour to balance the interest of parties, the Court is inclined to permit the respondents to proceed with the auction. However, the respondents are directed to not to declare the result of the auction for a period of 15 days from tomorrow.

10. The respondents are directed to move the Hon'ble Division Bench of this Court in to either suspend or stay order passed by this Court on 03.11.2023 in W.P.(MD).No.20349 of 2023. The respondents are also directed to ensure that the existing licensed vendors shall continue to sell the products in the temple



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premises, pending further orders of the Hon'ble Division Bench of this Court in W.A.(MD)No.2161 of 2023. The respondents shall collect proportionate licence fees from the existing licensed vendors to the temple, which has to be duly accounted by the respondents.

11. Under these circumstances, this Writ Petition is disposed of by permitting the respondents to proceed with the proposed auction. The respondents are directed not to declare the result of the auction. The respondent shall intimate bidders that the result of the auction is subject to the final out come of the proceedings in W.A.(MD)No.2161 of 2023.

This Writ Petition is disposed of with above directions. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes / No
apd

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C.SARAVANAN, J.

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