



W.P.(MD)No.20248 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.08.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.(MD)No.20248 of 2024
and
W.M.P.(MD)No.17181 of 2024

G.Rajendran

... Petitioner

Vs.

- 1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Chennai.
- 2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Thanjavur.
- 3.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Thanjavur.
- 4.Ravichandran
- 5.Balamurugan
- 6.Naagooran
- 7.Senthil Kumar
- 8.Stalin



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9.Gawaskar

10.Thangapandi

11.Subbaiyan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating with the impugned order in I.A.No.21 of 2023 in O.A.No.20 of 2022 dated 31.05.2024 passed by the second respondent and quash the same as it is arbitrary and illegal and consequently direct the second respondent to implead the petitioner in O.A.No.20 of 2022 as per earlier orders of this Court.

For Petitioner : Mr.K.Pragadeesh Kumar

For R-1 to R-3 : Mr.K.S.Selva Ganesan
Additional Advocate General

ORDER

This Writ Petition is filed challenging the impugned order dated 31.05.2024, whereby the impleading petition of the petitioner in the proceedings pending before the Joint Commissioner for framing a scheme in terms of Section 64 (1) of the Hindu Religious and Charitable Endowments Act stood rejected.



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2. It is submitted that earlier a Writ Petition in W.P.(MD)No.4879 of 2023 was filed by the Secretary of the subject Temple on behalf of the trust viz., Arulmigu Sri Yamadharmanarajan koil and Community Welfare Trust, whereby the impugned order dated 09.01.2023 on the file of the Assistant Commissioner of Hindu Religious and Charitable Endowments Department, Thanjavur District was challenged with a prayer to direct the respondent authorities to record and register the Poosari appointed by the trustees of the Temple as 'Poosari' for performance of customary poojas and other rituals in the petitioner temple for the period between 2023-2026. The petitioner herein was arrayed as the fourth respondent in the said Writ Petition. After hearing both sides, the learned Single Judge was pleased to pass the order dated 19.04.2023, the relevant portion of which is extracted hereunder:

“10. It is an admitted fact that a petition for framing a scheme is already pending before the authorities and in the said petition, the petitioner has stated that he and his community people are in control and management of the said temple. The fourth respondent has filed a petition to implead himself. While so, it is not known as to how respondents 1 to 3 have appointed the fourth respondent without notice whatsoever to the Trustees. Even assuming



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that respondents 1 to 3 are yet to recognise the Trustees as the administrators of the temple, they are aware of a rival claim with regard to the temple in question and due process requires that all parties concerned should be put on notice before orders are passed.

11. Taking note of the fact that the impugned order is passed without notice or an enquiry of all interested parties, this Writ Petition is allowed, the impugned order dated 09.01.2023 is set aside. It is made clear that the Poosari who has been appointed by the Trustees of the petitioner-temple shall continue as Poosari. However, it is open to the fourth respondent to approach the authorities concerned for redressal. No costs. Consequently, connected miscellaneous petitions are closed.”

3. Aggrieved by the order of this Court dated 19.04.2023 passed in W.P.(MD)No.4879 of 2023, the fourth respondent therein/petitioner herein has filed a Writ Appeal in W.A.(MD)No.778 of 2024, wherein this Court on 26.04.2024 was pleased to pass the following order:

“11.In the result, the following orders are passed in this Writ Appeal:

(i) That the poosari appointed by the HR & CE Department ie., the present appellant, namely G.Rajendran, can continue to be the Oru kala Poosari for performing



only Yamakandakalam pooja. Insofar as poosari nominated by the fourth respondent Trust ie., Muruganandham would act as a poosari to perform the poojas for all other times, except Yamakandakalam.

(ii) This arrangement can continue till the final decision is made by the Joint Commissioner, HR & CE Department, Thanjavur in O.A.No.20 of 2022 and thereafter, depending upon the decision to be made by the Joint Commissioner by framing a scheme or otherwise, the parties can abide by the said decision and accordingly can act upon.

(iii) In view of the aforesaid interim arrangement, application No.20 of 2022 pending before the Joint Commissioner, Thanjavur shall be decided on merits and dispose of the same as early as possible preferably within a period of four months from the date of receipt of a copy of this order.

12.In view of the aforesaid decision, the order passed by the learned Judge which is impugned herein is accordingly modified to the terms indicated above and the Writ Appeal is, accordingly, disposed of.”

4. Pursuant to the above order, an impleading petition was filed by the petitioner which is rejected vide impugned order dated 31.05.2024, finding that



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Poosari of the Temple is an employee and thus he is not a party interested in framing of a scheme. It is the above order rejecting the impleading petition of the petitioner by the second respondent, which is the subject matter of challenge in this Writ Petition.

5. It is submitted by the learned counsel for the petitioner that the petitioner is not only a poosari but he is also a trustee of the above Temple and an interested person. Thus, rejection of the impleading petition under Section 64 of Hindu Religious and Charitable Endowments Act, is illegal and erroneous.

6. The learned Additional Government Pleader for the respondents 1 to 3, would submit that the Joint Commissioner/ Deputy Commissioner in terms of Section 64 of Hindu Religious and Charitable Endowments Act, while settling a scheme is under an obligation to consult the trustee and the persons having interest in the prescribed manner and after such consultation, if satisfied, that it is necessary or desirable to do so, he may by orders settle a scheme for administration of the institution.



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7. The learned Additional Government Pleader would submit that the petitioner may resubmit the impleading petition along with the relevant materials to show that he is a person having interest, which shall be considered and orders would be passed in accordance with law, after providing reasonable opportunity of personal hearing, to which the learned counsel for the petitioner would also agree.

8. Recording the same, this Writ Petition is disposed of with liberty to the petitioner to file a fresh impleading petition, in the proceedings pending before the Joint Commissioner / 2nd respondent. If any such application is filed, the same would be considered and orders would be passed, in accordance with law, after affording the petitioner and other interested parties a reasonable opportunity of personal hearing. No costs. Consequently, connected miscellaneous petition is closed.

27.08.2024

NCC:yes/no

Index:yes/no

Internet:yes/no

Nsr

Note: Issue Order Copy on 27.08.2024.



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To:

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MOHAMMED SHAFFIQ, J.

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