



W.P.(MD) No.23534 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE **K.KUMARESH BABU**

W.P.(MD) No.23534 of 2023 &
WMP.No.4927 of 2024

M.Vetrivel

... Petitioner

/vs./

1.The Assistant Commissioner,
Hindu Religious Charitable and Endowments Dept.,
Virudhunagar.

2.The Executive Officer,
A/m.Koodamudaiya Ayyanar Thirukovil,
Kalayarkurichi, Sivakasi Taluk,
Virudhunagar District.

3.The Tahsildar,
Taluk Office, Srivilliputtur,
Virudhunagar District.

4.Mr.Subramanian

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records relating to the impugned proceedings of the first respondent in Se.Mu.Na.Ka.2680/2020/A3, dated



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21.08.2023 and the consequential proceedings of the second respondent dated 08.09.2023 requiring the petitioner to hand over the charges of the Arulmighu Palani Andavar Thirukovil and Sree Then Palani Bala Murugan Thirukovil, Mullikulam village, Sivakasi Taluk, Virudhunagar District Temple and quash the same.

For Petitioner : Mr.V.R.Shanmuganathan

For Respondents : Mr.P.Subbaraj Spl.G.P., for R1 & R3

Mr.P.Mahendran for R2

Mr.B.Rajesh Saravanan for R4

ORDER

This Writ Petition had been filed challenging the order of the appointment of a fit person by the first respondent and the consequential order of the second respondent directing to hand over the charges to the fit person for Arulmighu Palani Andavar Thirukovil and Sree Then Palani Bala Murugan Thirukovil, Mullikulam village, Sivakasi Taluk, Virudhunagar District Temple.

2. Heard V.R.Shanmuganathan learned counsel appearing for the petitioner and Mr.P.Subbaraj, learned Special Government Pleader appearing



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for the first and third respondents, Mr.P.Mahendran, learned counsel appearing for the second respondent and Mr.B.Rajesh Saravanan, learned counsel appearing for the fourth respondent.

3. The learned counsel for the petitioner would submit that a Scheme in O.A.No.83 of 1978 was framed under which the temple and its properties were to be administered by Sirukudi Vellalar Community also known as Illathu Pillaimar Community through their representatives who may be chosen by the said Community. The temple shall be managed by such representatives who shall not be less than three and not more than five. Such appointed trustees shall among themselves select one of them as the Chairman of the Board of Trustees. The Chairman of the Office of the Trustees was for a period of three years. He would submit that the petitioner herein is the present Secretary of the Administrative Committee of the Temple while one Palani Kumar was its trustee. They having been nominated by the Members of the Committee on 10.08.2021. He would submit that the fourth respondent herein claiming to be the President of Malli Mullikulam Vaal illathu Pillamar Samudhayam had originally initiated a Suit in O.S.No.53 of 2022 claiming to be the Trustees of



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the Temple would restrain the defendants therein from preventing the plaintiff community from worshipping the said Temple and also for a mandatory injunction that the persons in administration during the year 2017-20 for rendition of accounts. He would submit that the fair and decreetal order in I.A.No.2 of 2020 in the said Suit had granted injunction.

4. A categorical finding had also been given by the Court that the said injunction would not in any way deal with the issues in respect of the administration of the Temple. He would submit that recording the dispute between the two groups, with regard to the Annathanam conducted by the Temple during the monthly Karthigai Star, without conducting an enquiry, the first respondent had appointed a fit person to the Management of the Temple. He would submit that had notice been issued to the persons in the Management of the Temple, the petitioner would have placed the relevant materials on record to substantiate their right to management of the Temple. Hence, he would seek interference with the orders impugned in this Writ Petition.

5. Countering his arguments, the learned counsel appearing on behalf of the first and second respondents would submit that the present Writ Petition is



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not maintainable, as the petitioner has got an efficacious alternative remedy under Section 63(e) of the H.R.&C.E. Act. He would submit that the Temple had been continuously under the Administration of the Committee and the Department has not appointed any Trustee as per the scheme so far. He would submit that no accounts of the Temple including the administration of the property had been submitted to the Department as required under law. He would further submit that there are two groups within the said community fighting for each other and claims to be the management of the Temple. Hence, to defuse the tension between the groups, a fit person has been appointed by the Department. Based upon the decision of the Peace Committee meeting, appointment of the fit person has been made by the Department and further instructions has also been issued that without the prior permission of the Department, the Annathanam should not be conducted. He would submit that there is no error in the appointment of a fit person till the situation is defused.

6. The learned counsel appearing for the fourth respondent would contend that there are various properties to the Temple including a Kalyana Mandapam, no accounts have been submitted by the persons in Management of



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the Temple namely the Trustees nominated by the Illathu Pillaimar Community and would further submit that for the period from 2022-23 a set of people were nominated by the community for the Management of the Temple. Since the erstwhile Trustees, who were managing between 2017 and 2020 have not filed their accounts. He had initiated a suit in O.S.No.53 of 2020. He also contended that the members belonging to the said community namely Malli Mullikulam Vaal illathu Pillamar Samudhayam were not permitted to worship the God. He had also prayed for an injunction restraining them from interfering with the rights of the said community from worshipping the deity and also for mandatory injunction to submit their accounts. Therefore, he would submit that the petitioner claiming himself to be appointed from 2021 could be of no consequences, as already a team appointed by the Illathu Pillaimar Community, management of the Temple from the year 2020 itself. He would support the contention of the petitioner that dehors the scheme, the first respondent do not have authority to appoint a fit person to the Temple as the same is being managed by the nominated Trustees of the Illathu Pillaimar Community.



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7. I have considered the rival submissions made by the learned counsels appearing on either side and perused the materials placed on record.

8. Admittedly, the Temple is managed in terms of the scheme made in O.A.No.83 of 1978, dated 12.01.1979. The claim of the petitioner is that he is nominated as a Trustee pursuant to the resolution made by the members of the Illathu Pillaimar Community on 10.08.2021. Similarly the case of the fourth respondent is that the said community had nominated a team of Trustees even as early as on 14.04.2020, as per the scheme framed. The period of Trusteeship of the nominated members of the Illathu Pillaimar Community is only three (3) years. Even accepting to the claim made by the petitioner as well as the fourth respondent, the nomination of the Trustees by the Illathu Pillaimar Community had been made on 10.08.2021 and 14.04.2020. Considering the fact that the period of Trusteeship is only for three years, the rival claim of the appointment of Trustees by Illathu Pillaimar Community, would however already come to an end. Therefore, the Illathu Pillaimar Community had to now nominate a fresh set of Trustees for the management of the Temple and its properties as per the



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9. Therefore, without going into the disputed claim made by the petitioner and the fourth respondent, there shall be a direction to the first respondent to call for the General Body of the Illathu Pillaimar Community and conduct an election for appointment of Trustees as per the scheme made in O.A.No.83 of 1978, dated 12.01.1979. Such exercise shall be carried out by the first respondent within a period of four (4) months from the date of receipt of a copy of this order. The first respondent shall finalise the list of eligible voters belonging to the Illathu Pillaimar Community within a period of four (4) weeks and thereafter, conducted an election within a period of eight (8) weeks. It is made clear that the order appointing a fit person shall be enforced forthwith, as there are disputed claims with regard to the Trusteeship by two set of individuals. As and when the election process is completed and the Trustees are appointed, the fit person shall hand over the charge to the newly appointed Trustees.



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10. With the aforesaid directions, this Writ Petition is disposed of.

However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No

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Internet : Yes / No

Gba

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