



W.P.(MD) No.28883 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON	DELIVERED ON
02.12.2024	04.12.2024

CORAM:

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

W.P.(MD) No.28883 of 2024
and W.M.P.(MD).No.24467 of 2024

S.M.Subramanian

... Petitioner

/vs./

- 1.The Commissioner,
Hindu Religious and Charitable Endowment Board,
Nungambakkam, Chennai – 600 034.
- 2.The District Collector,
Pudukkottai District.
- 3.The Joint Commissioner,
Hindu Religious and Charitable Endowment Board,
Thanjavur, Thanjavur District.
- 4.The Asst., Commissioner,
Hindu Religious and Charitable Endowment Board,
Pudukkottai, Pudukkottai District.
- 5.The Executive Officer,
Pudukkottai Devasthanam,
Pudukkottai District.
- 6.The Tahsildar,
Thirumayam Taluk,
Thirumayam, Pudukkottai District.



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7.V.Karuppiah

8.K.Karuppiah

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus to forbear the respondents 1 to 5 from granting any permission to the 7th & 8th respondents villagers (Meenikonendal village) to construct the suit Temple or put-up any new structure in and over the Deity called “*Sri Sethu Vinayagar*” comprised in Kummangudi Village Survey No. 348/3 situated within the Revenue jurisdiction of Kummangudi Village Panchayat, Thirumayam Taluk, Pudukkottai District.

For Petitioner : Mr.Sricharan Rengarajan, Sr.Counsel
for Mr.M.Rajasekaran

For Respondents : Mr.P.Subbaraj,
Special Government Pleader for RR1 to 4 & 6
: Mr.G.Mathavan for R5
: Mr.G.Prabhu Rajadurai for RR7 & 8
for Mr.K.Abdul Sabur Khan

ORDER

This Writ Petition had been filed to forebear the respondents 1 to 5 from granting any permission to the respondents 7 & 8 representing the villages of Meenikonendal Village to construct the suit temple or put-up any new structure in and over the Deity called “*Sri Sethu Vinayagar*” comprised in Kummangudi Village situated within the Revenue jurisdiction of Kummangudi Village



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Panchayat, Thirumayam Taluk, Pudukkottai District.

2. Heard Mr.Sricharan Rengarajan, learned Senior Counsel for Mr.D.Parisuthanathan, learned counsel for the petitioner, Mr.P.Subbaraj, learned Special Government Pleader, appearing on behalf of the respondents 1 to 4 & 6, Mr.G.Mathavan, learned counsel appearing on behalf of the fifth respondent and Mr.G.Prabhu Rajadurai, learned counsel appearing for Mr.K.Abdul Sabur Khan, learned counsel appearing on behalf of the respondents 7 & 8.

3. Mr.Sricharan Rengarajan, learned Senior Counsel appearing for the petitioner would submit that as regards to the management of the **“Sri Sethu Vinayagar”** temple, the villagers of Meenikonendal Village filed a suit against the villagers of Kummangudi Village in the year 1950 in O.S.No.184 of 1950 which was dismissed as default on 09.06.1953. A subsequent suit in O.S.No. 183 of 1953 was filed again by the villagers of Meenikonendal Village against the villagers of Kummangudi Village came to be dismissed in the year 1955. An appeal suit in A.S.No.31 of 1955 also came to be dismissed on 20.01.1956. Having failed in the said suits, the villagers of Meenikonendal Village have



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been interfering with the rights of the villagers of Kummangudi Village.

Hence, the villagers of Kummangudi Village had instituted a suit in O.S.No. 245 of 1993 on the file of the Sub-Court, Pudukottai against the villagers of Meenikonendal Village. Again a suit in O.S.No.155 of 2000 on the file of the Sub-Court, Pudukottai was filed by the villagers of Meenikonendal Village. The Sub-Court, Pudukottai without considering the plea of *res judicata* dismissed the suit filed in O.S.No. 245 of 1993 filed by the villagers of Kummangudi Village and decreed the suit filed by the villagers of Meenikonendal Village in O.S.No.155 of 2000. Against which the petitioner villagers had filed an appeal in A.S.Nos.6 & 7 of 2016 and the Principal District Court had dismissed the appeal suit in A.S.No.6 of 2016 confirming the judgment and decree of the Trial Court in O.S.No.155 of 2000, but had allowed the appeal suit in A.S.No.7 of 2016 against the judgment and decree made in O.S.No.245 of 1993. Being aggrieved against the same, a second appeal in S.A.No.267 of 2018 have been preferred by the petitioner villagers and the same is still pending consideration by this Court.

4.By playing fraud upon this Court, the villagers of Meenikonendal Village had moved a Writ Petition in W.P.No.19727 of 2017 as if their claim



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had been upheld by the Civil court and had got an order to consider their representation for carrying out *thirupanigal*. He would further submit that even in the Writ Petition, a direction had been issued to the respondents to decide the representation of the petitioner after giving an opportunity not only to the villagers of the Meenikonendal Village but also to all other interested persons. But, however, without conducting any detailed enquiry, the Official respondents seems to have considered the representation and hence, apprehending that the official respondents may permit the villagers of Meenikonendal Village to construct the temple defeating the rights of the petitioner villagers, hence the present Writ Petition had been filed.

5.He would further submit that a Peace Committee Meeting had been held by the Tahsildar, Thirumayam, wherein, the Tahsildar after recording all various objections had given a finding that the villagers of Kummangudi Village do not have any objection for carrying out the renovation work and to conduct the *Kumbabishekam*, which goes contrary to the judgment and decree of the appeal suit in A.S.No.7 of 2016. He would submit that serious fraud had been played upon the petitioner villagers with the connivance of Official



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respondents and therefore, he would pray this Court to issue direction to forebear the respondents from granting any such permission.

6.On the contrary, Mr.P.Subbaraj, learned Special Government Pleader, appearing on behalf of the respondents 1 to 4 & 6 would submit that by proceedings dated 09.10.2024, permission had been granted to the fifth respondent and the villagers for conducting the *kumbabishekam* festival by following the *agumas* and also on certain conditions. He would further submit that when that being so, without challenging the said order, a Mandamus to forebear the Official respondents from not permitting the respondents 7 & 8 villages would not be maintainable. Therefore, he would pray this Court to dismiss the Writ Petition.

7.Mr.G.Prabhu Rajadurai, the learned counsel appearing on behalf of the respondents 7 & 8 representing Meenikonendal Villagers would submit that it is true that the petitioner had filed an appeal suit as against the judgment and decree passed by the Trial court, wherein the Appellate Court had specifically held that the temple is situated in Meenikonendal Village and not in



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Kummangudi Village as claimed by the petitioner. He would further submit that the temple is a public temple of which all the villagers are entitled for worshipping the deity and the temple is under the control of Pudukkottai Devasthanam situated in Meenikonendal Village. The permission had been granted to the Pudukkottai Devasthanam to carry out the renovation works to the temple based upon the named donors in the order dated 09.10.2024.

8.The prayer in the suit filed by the petitioner in O.S.No.155 of 2000 was an permanent injunction restraining the defendants namely the villagers of Kummangudi Village from anyway preventing or interfering with the temple construction work which was decreed on the basis that there has been a permission granted by the Joint commissioner. When an appeal suit was taken up for hearing based upon the RTI reply given by the Executive Officer dated 10.06.2016, the Appellate Court had assumed that there was no such permission granted by the Joint Commissioner and hence, the decree passed upon such recommendation was set aside that would not give a right to the petitioner to contend that the fifth respondent/ Executive Officer representing the Pudukkottai Devasthanam does not have a right to renovate the temple since, a



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specific finding had been given by the Appellate Court in the appeal suit arising out of the suit filed by the petitioner that the temple is being managed by the Pudukkottai Devasthanam. The order dated 09.10.2024 was issued by the Joint Commissioner is based on an application of the Executive Officer of the Pudukkottai Devasthanam for carrying out the renovation works of the **“Sri Sethu Vinayagar temple”**. When that being so, the claim of the petitioner that respondents 7 & 8 representing the villagers of Meenikonendal Village should not be granted permission would have to fall and therefore, he would submit that the Writ Petition does not deserve, no consideration and is liable to be dismissed.

9.Mr.G.Mathavan, learned counsel appearing on behalf of the fifth respondent would submit that after following the due process of law, the third respondent herein had granted permission to the fifth respondent to carry on the renovation work in conjunction with the villagers of the respondents 7 & 8. Without challenging the said order, the present Writ Petition cannot be entertained and prayed this Court to dismiss the same.



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10.I have considered the rival submissions made by the learned counsels appearing for their respective parties and had perused the materials available on record.

11.Disputes between the two villagers represented by the petitioner and the respondents 7 & 8 had been there from the year 1950. Admittedly, the temple is in the management of Pudukkottai Devasthanam for which an Executive Officer had also been appointed. As regard to the conduct of the festivals and the management of temple, Civil Suits had been instituted by both the villagers. In fact in the Civil Suit filed by the petitioner villagers, there has been a finding by the Trial Court that the temple affairs is being managed by the Pudukkottai Devasthanam and that the temple is situated within the village represented by the respondents 7 & 8.

12.A categorical finding had also been given by the Appellate Court that the appellants as public are also entitled to worship like other villagers. The judgment and decree with regard to the construction of the temple had been set aside by the Appellate Court by holding that there was no such permission granted by Official respondents to the villagers of respondents 7 & 8.



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13.The proceedings of the third respondent dated 09.10.2024 made in செ.மு.ந.க.எண்.13483/2024/ஆ1, had been placed on record by the learned Special Government Pleader. A perusal of the same would show that the fifth respondent herein in joint efforts of the villagers of the 7 & 8 respondents had approached the second respondent for carrying out the renovation works to the **“Sri Sethu Vinayagar temple”** and that subject to certain conditions imposed therein, administrative sanction as well as the technical approval has been granted by the second respondent.

14.A Civil Court had also given a finding that the temple is situated in village of respondents 7 & 8 and being administrated by the fifth respondent Pudukkottai Devathanam. When such is the categorical finding of the Civil Court which stands good as on this date, as there has been any interim orders in the second appeal filed by the petitioner villagers, the regular renovation work and consecration as per the agumas cannot be prevented at the instances of the petitioner villagers who have been held to have only a right to worship in a temple by the Civil Court.



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15. For the aforesaid reasoning and findings, I do not find any reasons to grant the prayer as sought for by the petitioner that too in the light of the order of the third respondent dated 09.10.2024.

16. In fine, this Writ Petitions is dismissed. If the petitioner desires to challenge the order of the third respondent dated 09.10.2024 made in செ.மு.ந.க.எண்.13483/2024/ஆ1, it is for them to challenge the same in the manner known to law. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet : Yes / No
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K.KUMARESH BABU, J.

Gba

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