



W.A(MD)No.173 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 12.02.2024

PRONOUNCED ON : 06.03.2024

CORAM:

**THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.A(MD)No.173 of 2024
and
C.M.P(MD)No.1490 of 2024**

The Fit Person,
Arulmighu Valagurunathasamy,
Angala Eswari Thirukkivil,
Koilpulikuthi, Sattur Taluk,
Virudhunagar District,
O/o.The Executive Officer,
Arulmigu Venkatachalapathi Thirukkivil,
Hindu Religious and Charitable Endowment Department,
Sattur,
Virudhunagar District.

... Appellant/Petitioner/
Third Party

VS.

1.Kalirajan

... 1st Respondent/
1st Respondent/Writ Petitioner

2.The Commissioner,
The Hindu Religious and Charitable
Endowment Department,
Nungambakkam,
Chennai – 600 034.



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

4.G.Elankannan

5.V.Nagaraja

6.V.Radhakrishnan

7.V.Solaisamy

8.G.Nallasamy

9.Kovilpulikuthu Swami Kumbidum Nadar
Thayathigal Sangam,
Through its President,
S.Jawahar.

... Respondents 2 to 8/
Respondents 1 to 8

PRAYER : Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 21.07.2023 passed in W.P(MD)No.6685 of 2023, on the file of this Court.

For Appellant	: Mr.P.Mahendran
For Respondent No.1	: Mr.S.Meenakshi Sundaram for Mr.N.Ganasapapathy
For Respondent Nos.2 & 3	: Mr.S.P.Maharajan Special Government Pleader
For Respondent Nos.4 to 8	: Mr.S.Madhavan



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JUDGMENT

(Judgment of the Court was made by D. KRISHNAKUMAR, J.)

Assailing the order, dated 21.07.2023 passed by the learned Single Judge in W.P(MD)No.6685 of 2023, this Writ Appeal has been filed by the appellant / third party.

2.The brief facts leading to the filing of the Writ Appeal are as follows:

2.1.The first respondent/writ petitioner has filed a Writ Petition in W.P(MD)No.6685 of 2023, seeking to quash the impugned order passed by the second respondent vide proceedings in A.P.No.12 and 21/2020/D2, dated 02.02.2023.

2.2.According to the first respondent/writ petitioner Arulmigu Shri Vaalagurunathaswamy Angaala Eswari Thirukovil, located at Kovilpulikuthi Village, Sathur Taluk was established by 12 persons called as 'Palayakararkal'. Initially, it was managed by the said 12 Palayakararkal,



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thereafter, 5 Palayakararkal made themselves reclusive and left the Temple administration 300 years before. Thereafter, the other 7 Palayakararkal are continuing in administration and management of the said Temple and the first respondent/writ petitioner is one among the said 7 Palayakararkal. The first respondent/writ petitioner and other persons have filed a petition under Section 64 of the Hindu Religious and Charitable Endowments Act, to frame a scheme with respect to the management of the Temple against the Executive Officer and Sangam, before the Joint Commissioner, Sivagangai in O.A.No.20 of 2012 and then it was transferred to the third respondent-Joint Commissioner, Madurai and the said application was renumbered as O.A.No. 3 of 2018. The third respondent-Joint Commissioner, Madurai, after considering the claim of the first respondent/writ petitioner and the respondents 4 to 8, has framed a scheme. Aggrieved over the scheme, the respondents 4 to 8 have preferred appeals in A.P.Nos.12 and 21 of 2020 before the second respondent. The second respondent remitted the matter back to the third respondent for reconsideration. Aggrieved over the same, the first respondent/writ petitioner has filed the Writ Petition.

2.3.The learned Single Judge by order dated 21.07.2023 in W.P(MD)No.6685 of 2023 has observed as follows:

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'5. However, the Commissioner has rendered a finding that the Joint Commissioner has not considered Ex.R.15 & Ex.R.16 phamplet printed during Kumbhabisekam would reveal that the 4th Appellant and Mr.Govindaraja Naicker and members of the various other community were part of the management committee. If the issue was considered by the Joint Commissioner, they should also be given a representation to the committee. Even, if they are considered, they cannot be granted management since already 7 Palayakarargal are available, among that 7, only 5 can be granted representation in the committee. Both the Joint Commissioner as well as the Commissioner have failed to consider the management should be on rotation basis. Therefore, it should be on rotation basis only. To this extent the matter is remitted back to the Joint Commissioner for reconsideration.

6. However until the petition is considered the temple cannot function without Board of Trustees. Moreover, the scheme is already published. Therefore, this Court is of the considered opinion that Board of Trustees consisting of five Palayakarargal shall be in the management for the period of two years and the same shall be constituted within a period of two weeks from the date of receipt of the copy of the order. In the meanwhile, the Joint Commissioner shall consider the case based on the remand order and the parties shall adhere to the outcome of the case. It is made clear that the present management shall complete their two years term and the same shall not be disturbed in between. The Joint Commissioner shall consider the case within a period of 4 months, from the date of receipt of a copy of the order.



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7. With these observations and direction, this Writ Petition is disposed of. No Costs. Consequently, W.M.P(MD)No.6314 of 2023 is allowed and W.M.P(MD)No.6316 of 2023 is closed.'

Aggrieved over the same, the instant Writ Appeal has been preferred by the appellant/third party.

3.The learned counsel appearing for the appellant/third party would submit that the appellant/third party has been working as a Fit person of the said Temple since 2012. The observations made in paragraph No.6 of the impugned order, dated 21.07.2023 are against the provisions contained under the Tamil Nadu Hindu Religious and Charitable Endowments Act. The Writ Court failed to consider the vital fact that already the Commissioner, HR & CE, Chennai passed an order in A.P.Nos.12 and 21 of 2020, dated 02.02.2023, whereby setting aside the order of framing the scheme decree as per order in O.A.No.3 of 2018. Further, as per the order of the Commissioner, HR & CE, Chennai, the matter has been remanded back to the Joint Commissioner, HR & CE, Madurai for fresh enquiry and orders and the said matter is pending. In such circumstances, the impugned order passed by the Writ Court is unsustainable and would create



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multiplicity of proceedings. The Writ Court also failed to appreciate the vital fact that as per Section 47(1)(a)(c) of the HR & CE Act, the Committee should consists of 5 members more fully including one member from Schedule Caste Community and one member from women category. But in the present impugned order, the said vital fact was not considered and a direction was given contrary to the above provisions and hence, the same is liable to be set aside.

4. According to the first respondent/writ petitioner, 7 Palayakararkal are continuing in administration and management of the said Temple till date and he is one among the said 7 Palayakararkal and therefore, prays for dismissal of the Writ Appeal.

5. This Court has considered the submissions made and perused the materials available on record.

6. The fact remains that the Commissioner, Chennai has passed an order setting aside the order of the Joint Commissioner, Madurai and remitted the matter to him to consider the claim of the first respondent/writ petitioner afresh. Though the Writ Court has accepted the contention of the



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respondents 4 to 8, the further direction of the Writ Court allowing the continuance of the said 5 Palayakararkal is not sustainable. Since the Temple has already been administered by the Fit Person, we are of the view that unless if it is decided by the Joint Commissioner, Madurai in O.A.No.3 of 2018, the direction to the Joint Commissioner, Madurai in paragraph No.6 of the impugned order is liable to be set aside. Insofar as the other direction passed by the Writ Court to the effect of directing the Joint Commissioner, Madurai to consider the case within a period of four months from the date of receipt of a copy of this order, shall remain unaltered.

7.With the above direction, this Writ Appeal is partly allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

[D.K.K.,J.] [R.V.,J.]
06.03.2024

NCC : Yes / No
Index : Yes / No
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To

- 1.The Commissioner,
The Hindu Religious and Charitable
Endowment Department,
Nungambakkam,
Chennai – 600 034.
- 2.The Joint Commissioner,
The Hindu Religious and Charitable Endowments Department,
Madurai.



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D. KRISHNAKUMAR,J.
and
R.VIJAYAKUMAR,J.

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ORDER MADE IN
W.A(MD)No.173 of 2024

DATED : 06.03.2024

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