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WP No. 21989 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-06-2025

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THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

WP No. 21989 of 2025

1. V.Murugesan
S/o. Vengaiah Gounder,
Panamarathupatti Village, Keezkupam
Post, Uthangarai Taluk, Krishnagiri
District 635 207.

Petitioner(s)

Vs

1. The Commissioner
Hindu Religious And Charitable
Endowment Department,
Nungambakkam, Chennai 600 034.

2.The Joint Commissioner
Hindu Religious Endowment
Department, Thiruvanamalai

Respondent(s)

PRAYER

Writ petition filed under Article 226 of Constitution of India for the issuance of writ of Mandamus to direct the 2nd respondent to act upon the petitioners representation dated 02.05.2025 requesting to number the interlocutory petition filed in O. A no. 10/2024 seeking recall of the dismissal order and



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restoration of the petition within a time frame fixed by this Court.

For Petitioner(s): M/s.S.Vasavi Sridevi

For Respondent(s): Mr.K.Karthikeyan

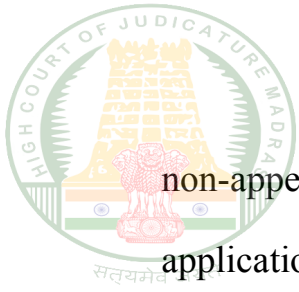
Government Advocate for R1
and R2

ORDER

This writ petition has been filed for the issue of writ of Mandamus directing the 2nd respondent to act upon the interlocutory application filed by the petitioner wherein the petitioner has sought for recalling the order of dismissal of OA No.10 of 2024 dated 04.12.2024 and to restore the same on file and to deal with the application of merits.

2. Heard M/s.S.Vasavi Sridevi, learned counsel for the petitioner and Mr.K.Karthikeyan, learned Government Advocate for respondents 1 and 2.

3. The petitioner along with four others filed an application before the 2nd respondent under Section 64(1) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 seeking for a declaration that Arulmighu Subramanya Swamy Temple is a denominational temple and requested for framing of a scheme to appoint non-hereditary trustees from a particular community. This application was numbered as OA No.10 of 2024. It is stated in the affidavit filed in support of the writ petition that on 03.04.2025, the petitioner received a communication to the effect that the OA was dismissed for

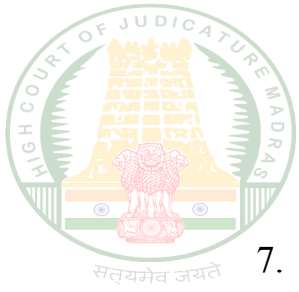


non-appearance on 04.12.2024. Aggrieved by the same, an interlocutory application was filed before the 2nd respondent to recall the order and to deal with the OA on merits. Since the same was not acted upon, the present writ petition has been filed before this Court.

4. The main issue that arises for consideration is as to whether the 2nd respondent has any power or jurisdiction to deal with the interlocutory application filed by the petitioner. The 2nd respondent is an authority created by the statute. Therefore, the power and jurisdiction of the 2nd respondent must be traceable to the statute and there cannot be any inherent power as is available to a Civil Court. Even though, the 2nd respondent may exercise a quasi judicial power that by itself does not elevate him to the status of the Court.

5. In the light of the above discussion, the Act does not provide for any power to the 2nd respondent to restore the application which has been dismissed for non-prosecution. Under such circumstances, there is no scope for directing the 2nd respondent to act upon the Interlocutory application and pass orders.

6. The learned Government Advocate appearing for the respondents submitted that in the meantime trustees have been appointed for the temple and therefore, the petitioner cannot now go back and prosecute the application, which was dismissed for default on 04.12.2024.



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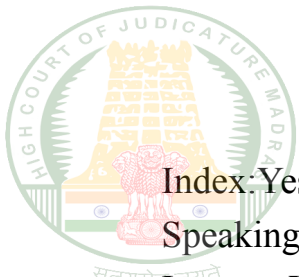
7. In the considered view of this Court, the petitioner along with others wants to establish that this temple is a denominational temple and hence, they wanted non-hereditary trustees to be appointed from a particular community. To substantiate the same, they are placing reliance upon various documents. Just because, trustees have been appointed by the department, that does not take away the right of the petitioner and others. The remedy available under Section 64(1) is a substantial remedy which cannot be taken away by virtue of such application being dismissed for default.

8. In view of the above, this Court is inclined to exercise its extraordinary jurisdiction under Article 226 of Constitution of India and restore the application on the file of the 2nd respondent. Accordingly, OA No.10 of 2024 shall stand restored on the file of the 2nd respondent. The 2nd respondent shall issue notice to the petitioner and others, who filed the application and hear them and pass orders on merits and in accordance with law, within a period of twelve weeks from the date of receipt of the copy of this order.

9. This writ petition is disposed of in the above terms. No costs.

19-06-2025

rka



Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

1.The Commissioner
Hindu Religious And Charitable
Endowment Department,
Nungambakkam, Chennai 600 034.

2.The Joint Commissioner
Hindu Religious Endowment
Department, Thiruvanamalai



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