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W.P.No.24484 of 2024

In the High Court of Judicature at Madras

Reserved on
03.7.2025

Delivered on :
08.7.2025

Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Writ Petition No.24484 of 2024
& WMP.Nos.26793 & 26794 of 2024

P.Senthil Kumar

...Petitioner

Vs

1.The Commissioner, Hindu
Religious & Charitable Endowment
Department, No.199, Uthamar
Gandhi Salai, Nungambakkam,
Chennai-34.

2.The Joint Commissioner, Hindu
Religious & Charitable Endowment
Department, Kancheepuram.

3.The Assistant Commissioner/Executive
Officer, Arulmighu Devarajaswami
Temple, Chinnakancheepuram.

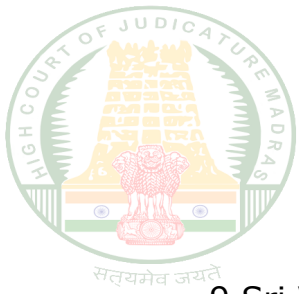
4.Sri.S.Srinivasa Ragavan Bhattar

5.S.Krishnasamy Bhattar, Archakar,
Arulmighu Devarajaswami Temple

6.Sri.C.N.Varadarajan

7.Sri.P.Rajkumar

8.Sri.B.Saravana Karthik



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9.Sri.Venkatesan

...Respondents

PETITION under Article 226 of The Constitution of India praying

for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order dated 16.7.2024 in D.Dis.No. 597334/2024/D2 passed by the first respondent, quash the same and consequently direct the third respondent namely the Assistant Commissioner/Executive Officer of Arulmighu Devarajaswami Temple, Chinna Kancheepuram to take over "Seethammal Morai" till the revision application in SMR.O.A.No.01/2022 dated 09.12.2022 under Section 63(e) of the HR & CE Act on the file of the second respondent is disposed of finally.

For Petitioner	:	Mr.S.Parthasarathy, SC for Mr.Victor Prasath
For R1 & R2	:	Mr.K.Karthikeyan, GA
For R3	:	Mr.R.Bharanidharan
For R4	:	Mr.T.Mohan, SC for Mr.Abhinav Parthasarathy
For R5	:	Mr.M.S.Krishnan, SC for Mr.K.S.Navin Balaji
For R6 to R9	:	No appearance



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ORDER

This writ petition has been filed challenging the proceedings of the first respondent dated 16.7.2024 and for a consequential direction to the third respondent to take over the Seethammal Morai till the revision application is disposed of by the second respondent.

2. Heard the learned counsel appearing for the respective parties.

3. The case of the petitioner is as follows :

(i) The fourth respondent was never an Archakar in the third respondent temple. However, for the first time, the third respondent, by order dated 04.12.2017, recognized the fourth respondent as the Archakar of the third respondent temple and permitted him to perform the Seethammal Morai. Pursuant to that, the first respondent initiated Suo Motu Revision No.4/2018 D2 by invoking Section 21 of the Tamil Nadu Hindu Religious and Charitable Endowments Act (HR & CE), 1959 (hereinafter called the Act) against the Joint Commissioner, HR & CE Department, Vellore and respondents 3 to 5 to examine the legality



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and propriety of the said order dated 04.12.2017 passed by the third respondent and a notice dated 18.6.2018 came to be issued.

(ii) This was put to challenge by the fourth respondent by filing W.P.(MD) No.17507 of 2018 before the Madurai Bench of this Court and the *suo motu* proceedings initiated by the first respondent was quashed by a learned Single Judge of this Court vide order dated 26.4.2019. Aggrieved by the said order dated 26.4.2019, the third respondent filed W.A.(MD)No.316 of 2020 and it was allowed by a Division Bench of the Madurai Bench of this Court vide judgment dated 29.6.2021 and a direction was issued to the first respondent to proceed with the *suo motu* proceedings.

(iii) Thereafter, vide proceedings dated 30.11.2021, the first respondent set aside the said order dated 04.12.2017 passed by the third respondent and directed the second respondent to initiate *suo motu* proceedings under Section 63(e) of the Act. The second respondent took up the revision and passed an order on 09.12.2022 directing the third respondent to prepare a code book for the third respondent temple. However, the second respondent also allowed the fourth respondent to continue as an Archakar till the third respondent prepares the code book.



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(iv) As against the same, the fifth respondent filed W.P.No.1088 of 2023 before this Court and it was dismissed by order dated 12.7.2023, however, granting liberty to the fifth respondent to file a statutory appeal before the first respondent. Pursuant to that, an appeal was filed by the fifth respondent before the first respondent in A.P.No.25/23/D2, in which, the first respondent passed an order dated 17.4.2024 disposing of the appeal and setting aside the said order passed by the second respondent dated 09.12.2022, which allowed the fourth respondent to perform pooja in the third respondent temple. While setting aside the said order of the second respondent dated 09.12.2022, the first respondent remitted the matter back to the second respondent to conduct a *de novo* inquiry and to decide on the various issues, which arose in the earlier order of the first respondent in Suo Motu Revision No.4/18 D2 after affording an opportunity to all concerned.

(v) It is alleged that the third respondent temple, despite receipt of the order passed by the first respondent, allowed the fourth respondent as a proxy to perform pooja. Various representations were also sent in this regard. Since the same were not considered, the petitioner filed W.P.No.14029 of 2024 before this Court seeking for a



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direction to the third respondent temple to take over the Seethammal Morai till the proceedings are completed before the second respondent. This writ petition was disposed of by order dated 22.5.2024 directing the first respondent to consider the representation of the petitioner dated 12.5.2024. Pursuant to that, the first respondent conducted an inquiry and passed the impugned order dated 16.7.2024 rejecting the said representation made by the petitioner. Aggrieved by that, the present writ petition has been filed.

4. This Court has carefully considered the submissions of the respective learned counsel on either side and perused the materials available on record and more particularly the impugned order passed by the first respondent.

5. The main issue involved in the present writ petition pertains to the continuation of the fourth respondent as the Archakar in the third respondent temple and thereby permitting him to do the Seethammal Morai.



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6. The claim made by the fourth respondent is that he is the adopted son of one Ms.Seethammal, who had morai for 16 days in a Tamil calendar month, that this was bequeathed in favour of the fourth respondent through a Will dated 04.6.1975 and that based on the same, the fourth respondent was claiming a right to be an Archakar in the third respondent temple and also to do the Seethammal Morai.

7. For the first time, the third respondent, through proceedings dated 04.12.2017, permitted the fourth respondent to perform the Seethammal Morai. This was challenged by the sixth respondent by filing W.P.No.21122 of 2021. In the meantime, the first respondent initiated *suo motu* revision under Section 21(1) of the Act to revise the order passed by the third respondent dated 04.12.2017. This was challenged by the fourth respondent by filing W.P.(MD) No.17507 of 2018. The main dispute at that point of time is that the fourth respondent was allowing his proxy – the fifth respondent to perform the duty of an Archakar. The fourth respondent informed the Writ Court that he himself would continue to be the Archakar and that he did not want a substitute or proxy in his place. Recording the same, W.P.(MD) No.17507 of 2018 was allowed by order dated 26.4.2019.



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8. Aggrieved by the said order dated 26.4.2019, the third respondent temple filed W.A.(MD) No.316 of 2020. This appeal was disposed of by a Division Bench of this Court vide judgment dated 29.6.2021, the relevant portions of which are extracted as hereunder :

"26. Firstly, as we observed earlier, Thiru.M. Vijayan, who was the then Executive Officer of the temple abdicated his statutory responsibility by passing a cryptic order dated 04.12.2017, without conducting any enquiry. The writ appeal has been filed by the successor in office and in the grounds of writ appeal it has been specifically stated that the first respondent-writ petitioner was never an Archakar of the said temple and he is an Archakar at Sri Ranganatha Swamy Temple, Srirangam and never did Pooja by himself till today in Arulmighu Devarajaswamy Temple, Kancheepuram.

27. Furthermore, the appellant submitted that the writ petitioner has not impleaded the necessary parties, namely, S.Krishnasamy Bhattar, Archakar of Arulmighu Devarajaswamy Temple, Kancheepuram, who is the party named in the impugned suo motu revision notice. Furthermore, it has been specifically stated that without conducting enquiry, the order dated 04.12.2017 has been passed. There are other grounds which have been raised, which we are not presently



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dealing with, because, it is for the Commissioner-HR & CE Department, to take a decision in the matter, pursuant to the suo motu revision notice dated 18.06.2018.

28. Thus, for the above reasons, this Writ Appeal is allowed and the order passed in the writ petition is set aside. Consequently, the writ petition is dismissed and the Commissioner-HR & CE Department, is directed to proceed further pursuant to the suo motu Revision Notice No.4/2018/D2, dated 18.06.2018, issue fresh notice to the writ petitioner, Thiru.S.Krishnasamy Bhattar, Thiru.R. Kannan Bhattar and all other persons, who may be interested in the matter and in order to ensure that the proceedings is made known to all the worshipping public as well, notice may be affixed in the prominent place in the office of the temple and such other manner as deemed appropriate to serve the purpose, for which, the suo motu revision proceeding are being taken.

29. Needless to state that when the Commissioner-HR & CE Department takes up the matter for enquiry, he shall be guided by the legal principles and take a decision on merits and in accordance with law, uninfluenced by any of the observations made in this judgment, which have been made by the Court to set aside the order passed in the writ petition."



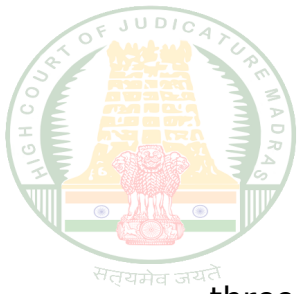
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9. It is clear from the above judgment that the order passed in the writ petition based on the claim made by the fourth respondent to function as the Archakar was set aside and a direction was issued to the first respondent to proceed further with the *suo motu* revision notice by issuing a notice to all the interested parties and proceed further in accordance with law. In the said judgment, there was no indication as to whether the fourth respondent could continue as the Archakar of the third respondent temple and do the Seethammal Morai.

10. Thereafter, *Suo Motu* Revision No.4/18 D2 was dealt with by the first respondent and by order dated 30.11.2021, the order passed by the third respondent was set aside and the second respondent was directed to initiate *suo motu* proceedings under Section 63(e) of the Act and decide the issues that were framed for consideration after issuing the notice to all parties concerned. The second respondent was also directed to get a report from the Joint Commissioner concerned to verify as to whether the fourth respondent was doing the Archakar service at Arulmighu Aranganatha Swamy Temple, Srirangam. Further,

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three months' time was given to the second respondent to pass orders. As a consequence, the matter was sent back to the second respondent and it was renumbered as O.A.No.1 of 2022.

11. The second respondent, through proceedings dated 09.12.2022 passed an order, the relevant portions of which are extracted as hereunder :

"19.

(ii) *In this case, suo motu initiated under Section 63(e) of the HR & CE Act, in the matter of deciding the 2nd respondent's entitlement to perform archaka service in this temple, conducive and authoritative evidences as to the customary rights of this temple were placed by the parties as elaborated in the annexure to this order based on them, his entitlement could be found affirmative.*

(iii) *However, in view of the difference experienced in arriving decision, it is found that it is most essential and necessary to maintain a code book for all custom and usages pertaining to various religious services performed in this temple, the 1st respondent is directed to conduct investigative enquiry by issuing notice to all the Archakas, Sthanikas and other persons involved and connected with various religious service*



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performed in this temple to ascertain definitely as a rule of the rights and capacity of the persons clothed with in all religious services performed in this temple has been decided by the Courts in several cases or has been in practice by long tradition, with reference to Act 2/1971 and Section 55 of the HR & CE Act, 1959 and the Rules framed thereunder and to keep it as a consolidated permanent record as code book of all religious service to be performed in this temple as according to the traditional custom and usages of the temple and to submit the same for the approval. The 2nd respondent is also entitled to participate in the enquiry purported to be conducted by the 1st respondent.

(iv) Till such time, during the pendency of the enquiry and decision arrived at by the 1st respondent as directed in the 2nd para, the 2nd respondent is entitled to perform archakaship in this temple coupled with other benefits attached thereto. On arriving the decision and making it in a permanent code book as directed, the 1st respondent in the competency vested in him as the Executive Authority (Executive Trustee) of the temple, is to examine all the Archakas, Sthanikas and other custom based religious service in the temple including that of the 2nd respondent to find out whether they are holding the services as



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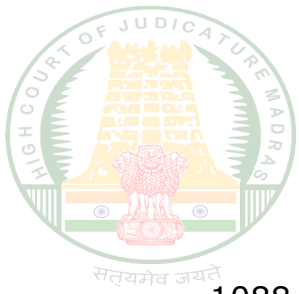


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according to the qualification and privileges clothed in them by custom and usages of the temple and as, in other aspects, be in conformity of the provisions of the Hindu Religious and Charitable Endowments Act, 1959 as amended by Act 2/1971 and the Rules framed thereunder and to take appropriate follow up action in the cases where there exist deviations in respect of them and thereby to make complete perfection in the maintenance of the internal administration of the temple to avoid any future disputes arising in respect of them."

12. The second respondent further directed the third respondent to prepare a code book, which should contain all the customary practices of the third respondent temple in relation to the appointment of Archakar and till the completion of the process, it was also directed that the fourth respondent could continue to perform as Archakar. The permission given to continue the fourth respondent as the Archakar was more in the nature of an interim arrangement.

13. The said order dated 09.12.2022 passed by the second respondent was challenged by the fifth respondent by filing W.P.No.



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1088 of 2023, which was dismissed by order dated 12.7.2023 in the following terms :

"23. As discussed earlier, the petitioner has got alternative remedy of filing an appeal before the Commissioner and any order passed by the Commissioner is liable to be challenged by way of suit before the regular Civil Court. Further, appeal to this Court is also provided. When petitioner has got three remedies one by way of appeal before the Statutory Authority, the other by way of regular Civil Suit and regular first appeal to this Court, which is governed by Code of Civil Procedure, the law laid down by the Hon'ble Apex Court in the case law referred above is squarely applicable to this Court. Even though the above said decision was rendered in the context of exercise of revisional jurisdiction under Article 227 of the Constitution of India, the same is applicable to exercise of power under Article 226 of the Constitution of India also. Hence, I hold the writ petition is not maintainable when petitioner has got effective remedy before the Statutory Authority and also before the regular Civil Court.

24. The arguments of the learned counsel for either side culled out in previous paragraphs would indicate that the present case involves various disputed questions of fact like whether 4th



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respondent performed the duties of Archaka of Sri Devarajaswamy Temple?, whether he is trained in Samhithas followed in the said Temple? and whether he got initiated (Dheeksha) into the Archakaship of the Temple by competent Senior Archaka? etc. This Court sitting in writ jurisdiction cannot conveniently adjudicate the above said pure questions of fact and precisely for this reason, I am not inclined to entertain the writ petition and petitioner should avail the alternative remedy of appeal wherein these disputed question of facts can be conveniently adjudicated upon.

25. The learned Senior Counsel for the petitioner emphatically submitted that the 1st respondent failed to follow the proper procedure in enquiry and decide the various issues which had been framed by the 2nd respondent. Any illegality or irregularity in the enquiry conducted by the 1st respondent and also his failure to follow the directions of the 2nd respondent etc., can also be agitated in an appeal filed before the 2nd respondent. Lastly, the learned Senior Counsel for the petitioner submitted that in case this Court comes to a conclusion that the petitioner shall avail alternative remedy before the 2nd respondent, this Court may grant an interim order in favour of the petitioner till the matter is decided by the 2nd respondent. When petitioner has got alternative



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remedy of appeal before the 2nd respondent, it is also open to him to file necessary application seeking interim order. When the matter came up before this Court on 12.01.2023 an interim injunction was granted restraining the 4th respondent from performing Archakaship till the date of next hearing. The matter again came up for hearings before this Court on 25.01.2023, 05.06.2023, 14.06.2023, 05.07.2023 and 07.07.2023. It appears the interim order granted by this Court on 12.01.2023 was not extended subsequently.

26. Therefore, if any appeal is filed by the petitioner before the 2nd respondent challenging the impugned order along with petition for interim orders, such application for interim order shall be taken up for hearing immediately by the 2nd respondent without any delay. The impugned order said to have been passed on 09.12.2022 and the annexure which contains the detailed order appear to have been signed on 10.01.2023 as seen from the typed-set of papers. The petitioner filed the writ petition on 10.01.2023. The petitioner is entitled to exclude the period from 10.01.2023 to the date of disposal of this writ petition while calculating the limitation for filing appeal before the 2nd respondent."



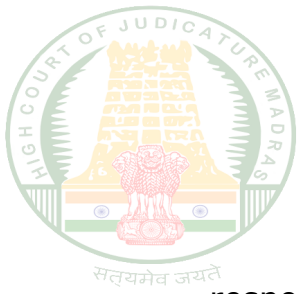
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14. For a short time, during the pendency of W.P.No.1088 of 2023, an order of interim injunction was granted on 12.1.2023 restraining the fourth respondent from performing the Archakarship and this order was not extended thereafter. This was noted in the said order dated 12.7.2023. This would only go to show that the fourth respondent continued as the Archakar in the third respondent temple.

15. Pursuant to the above order, the fifth respondent filed an appeal in A.P.No.25/23 before the first respondent. Since the same was not taken up for hearing, the fifth respondent filed W.P.No.6932 of 2024 and it was disposed of by order dated 19.3.2024 directing the appeal to be disposed of. Thereafter, the appeal came to be disposed of by order dated 17.4.2024 by the first respondent reversing the order passed by the second respondent dated 09.12.2022. Further, the matter was remanded to the file of the second respondent for a *de novo* inquiry after affording an opportunity to all concerned.

16. Later, the petitioner made a representation dated 12.5.2024 to respondents 1 and 3 not to permit the fourth respondent to continue as the Archakar. This representation culminated in passing the impugned order dated 16.7.2024 by the first respondent. The first



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respondent permitted the fourth respondent to continue as the Archakar based on the earlier order dated 24.12.2020 passed by the first respondent. When the said order dated 24.12.2020 was passed, W.A.(MD) No.316 of 2020 was pending and hence, it was specifically mentioned that it would be subject to the final outcome of W.A.(MD) No.316 of 2020.

17. Ultimately, W.A.(MD) No.316 of 2020 was allowed by judgment dated 29.6.2021 setting aside the order passed in W.P.(MD) No.17507 of 2018 dated 26.4.2019 and the first respondent was directed to proceed further with the *suo motu* revision notice dated 18.6.2018. This *suo motu* notice dated 18.6.2018, in turn, was against the order passed by the third respondent dated 04.12.2017 appointing the fourth respondent as the Archakar of the third respondent temple. If, ultimately, the Division Bench of the Madurai Bench of this Court restored the *suo motu* revision before the first respondent, the interim arrangement that was made by proceedings dated 24.12.2020 automatically comes to an end. This is in view of the fact that the fourth respondent was informed that his appointment to the post of Archakar was subject to the final result in W.A.(MD) No.316 of 2020.



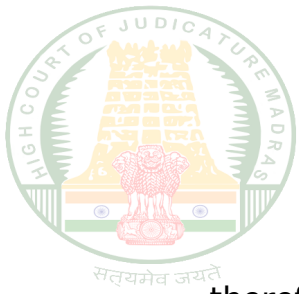
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18. It is relevant to take note of the fact that after the suo motu revision was revived by the Division Bench of the Madurai Bench of this Court, the matter once again went before the first respondent, who, vide Suo Motu Revision No.4/18 D2 dated 30.11.2021, specifically set aside the order dated 04.12.2017 passed by the third respondent. Thus, the continuation of the fourth respondent as the Archakar of the third respondent temple came to an end pursuant to the Division Bench judgment of the Madurai Bench of this Court in W.A.No. 316 of 2020 dated 29.6.2021 and also the subsequent order passed by the first respondent dated 30.11.2021.

19. The first respondent, while remanding the matter to the file of the second respondent to initiate suo motu proceedings under Section 63(e) of the Act, also directed the second respondent to get a report from the Joint Commissioner of Arulmighu Aranganatha Swami Temple, Srirangam as to whether the fourth respondent is doing the service of Archakar in that temple. The second respondent thereafter dealt with O.A.No.1 of 2022 on 09.12.2022 and came to the conclusion that difficulties were experienced in arriving at a decision, that

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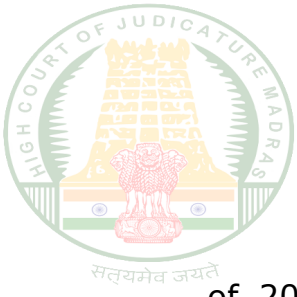


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therefore, it would be better to maintain a code book for all customs and usages pertaining to the various religious services performed in the third respondent temple and that till a code book could be prepared by the third respondent temple, the fourth respondent was permitted to continue as the Archakar.

20. As stated supra, the said order was put to challenge by the fifth respondent in W.P.No.1088 of 2023 and it was dismissed by order dated 12.7.2023 directing the fifth respondent to file an appeal before the first respondent. It is seen from the records that the continuation of the fourth respondent as the Archakar of the third respondent temple was challenged by the eighth respondent by filing W.P.No. 17920 of 2021, which was dismissed as withdrawn on 06.9.2021. Similarly, the sixth respondent filed W.P.No.21122 of 2021 challenging the proceedings of the third respondent dated 04.12.2017 and the attention of this Court was drawn to the earlier writ petition filed in W.P.No.17920 of 2021, which was withdrawn on 06.9.2021 as stated already. Hence, this Court was not inclined to entertain W.P.No.21122 of 2021 and it was also dismissed as withdrawn on 20.10.2021. Apart from the above, one Mr.Kannan Bhattar, Archakar filed W.P.No.2028



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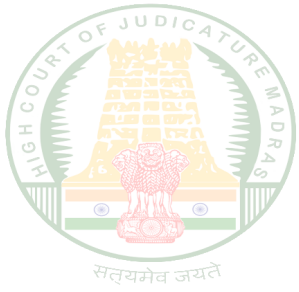
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of 2021 before this Court challenging the proceedings of the third respondent dated 25.1.2021 appointing the fourth respondent as the Archakar and it was also dismissed as withdrawn by order dated 03.9.2024.

21. Therefore, what is evident from the above is that at every given point of time, one person or the other approached this Court in the name of a devotee and took the time of this Court to decide on every other order that is passed by the Authorities.

22. The continuation of the fourth respondent as the Archakar right from the year 2021 has been put to challenge on various occasions and several orders have been passed. Ultimately, till a finality is reached in O.A.No.1 of 2022, which is pending inquiry before the second respondent, someone must function as the Archakar and do the Seethammal Morai. When the order dated 09.12.2022 passed by the second respondent was interfered by the first respondent, the matter was merely remanded to the file of the second respondent and there is no whisper as to who would perform the role of an Archakar in the third respondent temple.

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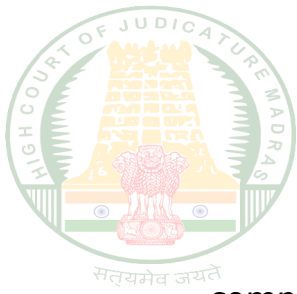
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23. The very same Commissioner, while passing the impugned dated 16.7.2024, thought it fit to direct the fourth respondent to continue as the Archakar of the third respondent temple. The matter is going back and forth between respondents 1 and 2. O.A.No.1 of 2022 pending before the second respondent is yet to reach its logical conclusion. The fourth respondent has been performing as the Archakar from the year 2021 onwards. Except for a brief period when the interim order of injunction granted on 12.1.2023 in W.P.No.1088 of 2023 was in force, he had continued as the Archakar and consequently, he has been performing the Seethammal Morai.

24. Instead of disturbing this status, it will be more appropriate to direct the second respondent to decide O.A.No.1 of 2022 within a time frame. This arrangement will enure to the benefit of the third respondent temple since any disruption at this point of time may further complicate the issue. The so-called devotees seem to be knocking the doors of this Court at regular intervals regarding this issue and at some point, this Court must direct the Authority to deal with the main issue instead of wasting time in dealing with the

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complaints of the so-called devotees against the continuation of the fourth respondent as the Archakar.

25. In the light of the above discussions, this Court is not inclined to interfere with the impugned order dated 16.7.2024 passed by the first respondent. There shall be a direction to the second respondent to deal with O.A.No.1 of 2022 on its own merits, afford an opportunity to all the parties concerned and pass final orders in accordance with law within a period of three months from the date of receipt of a copy of this order.

26. The writ petition is disposed of in the above terms. No costs. Consequently, the connected WMPs are closed.

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Index : Yes/No

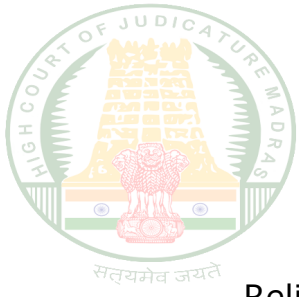
Neutral Citation : Yes/No

To

1.The Commissioner, Hindu
Religious & Charitable Endowment
Department, No.199, Uthamar
Gandhi Salai, Nungambakkam,
Chennai-34.

2.The Joint Commissioner, Hindu

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Department, Kancheepuram.

3.The Assistant Commissioner/Executive
Officer, Arulmighu Devarajaswami
Temple, Chinnakancheepuram.

RS



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N.ANAND VENKATESH,J

RS

P.D.ORDER IN
W.P.No.24484 of 2024 &
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