



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2025

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**THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE K.RAJASEKAR**

W.A.No.807 of 2025

and

CMP No.6974 of 2025

1.R.Moulisankar
2.ONS Nanjappan
3.V.Kandasamy
4.R.Subash
5.V.S.K.Palanisamy

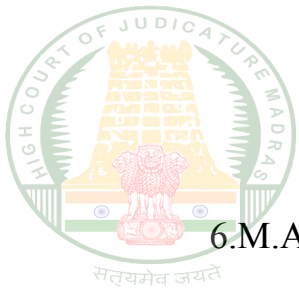
... Appellants

Vs.

1.S.Vasudevan
2.V.Veerapathiran
3.The Commissioner,
Hindu Religious and Charitable Endowments Board (HR & CE),
Nungambakkam High Road, Nungambakkam,
Chennai - 600 034.

4.The Joint Commissioner,
Hindu Religious and Charitable Endowments Board (HR & CE),
Kottai Mariyamankoil Compound,
Salem - 1.

5.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Board (HR & CE),
Kottai Mariyamankoil Compound,
Salem - 1.



W.A.No.807 of 2024



6.M.Amirthalingam

7.M.N.D.Rajalingam

... Respondents

Prayer: Writ appeal filed under Clause 15 of the Letters Patent, to set aside the order dated 09.09.2024 in W.P.No.3720 of 2023.

For Appellants : Mr.P.Saravana Sowmiyan

For Respondents: Mr.M.R.Jothimanian For R1 & R2
: Mr.N.R.R.Arun Natarajan
Special Government Pleader For R3 to R5

JUDGMENT

(Judgment of the Court was made by **S.M.SUBRAMANIAM, J.**)

Dissatisfied with the orders of the writ Court dated 09.09.2024 passed in W.P.No.3720 of 2023, the respondents 4, 6, 8 to 10 in the writ proceedings instituted the present intra Court appeal on hand.

2. The controversy arose to name the Deity in a temple falling under the administrative control of the HR & CE Department.

3. The appellants state that the deity is customarily worshipped as



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"Veereshwarar". However, the respondents 1 and 2 in the present writ appeal contends that the deity in the temple is named as "Veerapathiraswamy". In view of the said controversy, the writ petition came to be instituted challenging the orders passed by the competent Authority under the HR & CE Act.

4. The Assistant Commissioner passed an order stating that the deity in the temple to be worshipped as Veerapathiraswamy @ Veereshwararswamy. The order of the Assistant Commissioner was taken by way of an appeal before the Joint Commissioner. The Joint Commissioner also conducted elaborate enquiry with reference to the documents produced before him by the parties. The Joint Commissioner, HR & CE Department passed order in R.P.No.2 of 2012 dated 19.01.2023 and found that the name of the deity is "Veereshwarar". Consequently, the order of the Assistant Commissioner was set aside.

5. The learned Counsel for the respondents 1 and 2 would submit that the appellants had earlier filed a civil suit for declaration and it was dismissed for non-prosecution. However, the suit has not been decided on merits.



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6. The issues are relating to naming the deity in a temple being worshipped by the people of that locality. That being so, the dismissal of a suit for non-prosecution would have no implication or would prevent any other worshipper or the appellants from adjudicating the issues on merits and in accordance with law either by reopening the suit or by instituting fresh suit in accordance with law.

7. May that as it be, this Court is of the considered view that when the disputed issue of this nature cannot be adjudicated in a writ proceedings and it is to be adjudicated by the competent civil Court of law based on the documents and evidences and the customary practices which all are to be established, such an adjudication cannot be done by the writ Court. Writ Court cannot conduct a roving enquiry. Thus, the writ Court has rightly relegated to resolve the issues through competent Court of law. However, writ Court while doing so, ought not to have issued direction to name the deity as Veereshwararswamy @ Veerapathiraswamy which is a dispute in existence. In the event of forming a final opinion regarding name of the deity by the writ Court, the said findings would cause prejudice to the parties for the purpose of adjudication of issues on merits before the Civil Court of law. It is

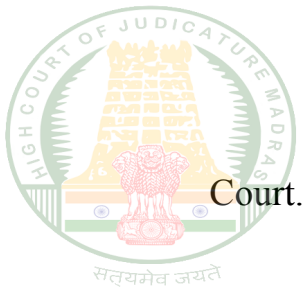


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possible that the civil Court may consider the findings made by the writ Court and therefore, the writ Court while relegating the parties to approach the civil Court, ought not to have expressed any opinion regarding the controversy relating to name of the deity in the temple.

8. As of now, the fact remains that the Assistant Commissioner passed an order and the said order has been set aside by the Joint Commissioner. When the order of the Joint Commissioner is in force, the approach of the parties before the writ Court is found to be unnecessary. The Court must relegate the parties to approach the civil Court without making any observation on merits touching upon the dispute.

9. Thus, this Court is of the considered opinion that the writ Court order issuing direction that the Temple to be called as Veereshwararswamy alias Veerapathiraswamy is not in consonance with the principles. Consequently, the writ order impugned dated 09.09.2024 in W.P.No.3720 of 2023 is set aside and the parties are relegated to approach the civil Court of law to resolve the disputes. The civil Court of law in the event of institution of any suit, shall decide the issues on merits and in accordance with law and uninfluenced by the observations made by the writ Court as well as of this



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Accordingly, the Writ Appeal stands **allowed**. No costs. Consequently, connected miscellaneous petition is closed.

[S.M.S,J.] [K.R.S,J.]

25.03.2025

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Index: Yes/No

Speaking order/Non-speaking order

Neutral Citation: Yes/No



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To

1.The Commissioner,
Hindu Religious and Charitable Endowments Board (HR & CE),
Nungambakkam High Road, Nungambakkam,
Chennai - 600 034.

2.The Joint Commissioner,
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Salem - 1.

3.The Assistant Commissioner,
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S.M.SUBRAMANIAM,J.
AND
K.RAJASEKAR,J.

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