

WMP(MD) NO. 2681 of 2025



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20-02-2025

CORAM

THE HONOURABLE MR JUSTICE B.PUGALENDHI

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WMP(MD) NO. 2681 of 2025

Thirumathi Narayani

Special Officer, Kollangudi Kaliyamman Temple, Sivagangai Taluk and District.

Petitioner(s)

Vs

1.R.P.Balanamasivayam

S/o.Balakrishnan, 42 F Raja Apartments, HAK Road,
Chinnachokkikulam, Madurai

2. The Commissioner

HR and CE Department,
Nungambakkam High Road,
Chennai - 600033.

3. The Joint Commissioner

HR and CE Department,
40, Muthusamy Nagar,
Thirupathur Road,
Sivagangai.

4. The Assistant Commissioner

HR and CE Department,
21, Vellaikannu Maligai,
Maduraiyar Street,
DD Vinayagar School (Nearby),
Velipatnam, Ramanathapuram District.

5. The Inspector of Police

Chatrakudi Police Station,
Paramakudi Taluk,
Ramanathapuram District.

6. Karunamoorthy

S/o.Ukrapandiyan Yadav,
Kannan Street, Achundhan Vayal, Ramanathapuram District.

7. Saravanan

S/o.Thangasamy,
Palanivalasai, Chitharkottai Post, Ramanathapuram District.

Respondent(s)

For Petitioner(s): Mr.P. Mahendran

For Respondent(s): Mr.R.P.Balanamashivayam,
for M/s. APN Law Associates,



for R1,
Mr.PT.Thiraviyam,
Government Advocate for R2 to R4
Mr.T.Senthilkumar,
Additional Public Prosecutor,
for R5



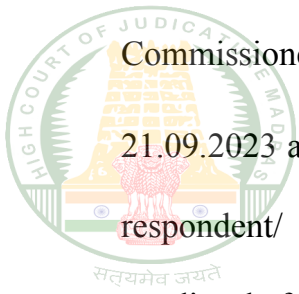
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ORDER

The Special Officer / Fit Person of Sri Kumarakadavul @ Subramaniasamy temple and Karuppapillai madam, Valanadu village, Muthukulathur taluk / respondent No.4 in WP(MD)No. 29210 of 2023 has filed this application to recall the order passed by this Court in WP(MD)No. 29210 of 2023 dated 14.12.2023.

2.The said writ petition was filed by the 1st respondent herein claiming that he is the Trustee / descendant of one Karuppapillai, who established the temple and his samadhi, which is situated in the temple. He was appointed as a hereditary trustee of the temple by the Assistant Commissioner, HR and CE Department, Ramanathapuram district by his order dated 24.07.2008. However he was removed as a hereditary trustee by the Assistant Commissioner by order dated 24.04.2015. As against which, he already filed a writ petition before this Court in WP(MD)no. 14220 of 2015 and on the directions of this Court, he is pursuing a suit before the Sub Court, Muthukulathur in OS.No.34 of 2018.

3.The Joint Commissioner, HR and CE Department has appointed this petitioner / 4th respondent in the writ petition as a Special Officer / Fit Person to administer Sri Subramaniasamy temple and the madam attached to it. The Fit Person has made certain arrangements to renovate the temple and to perform consecration. She has obtained permission on 19.01.2023 from the Joint Commissioner, HR and CE Department and she has also obtained a report from Archeological Department. The State Level Expert Committee has also permitted to carry out the renovation work and conduct consecration ceremony by its proceedings dated 15.06.2023. While so two donors have come forward to renovate the temple as well as the samadhi. The Joint



Commissioner has permitted them to carry out the renovation work by his proceeding

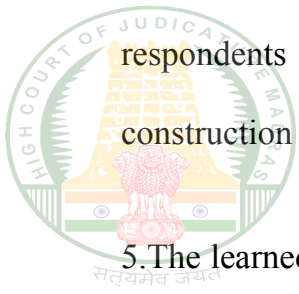
21.09.2023 and they were provided with work order on 12.10.2023. This was objected by the 1st respondent/ writ petitioner that the issue with regard to the administration of the temple is

pending before the civil court and he has filed the writ petition in WP(MD)No.29210 of 2023 seeking a mandamus forbearing the respondents therein from in any manner interfering with the properties and administration of Karuppapillai samadhi and Subramaniasamy temple of Valanadu village, Muthukulathur taluk, Ramanathapuram district, pending disposal of the suit in OS.No.34 of 2018 before the Sub Court, Muthukulathur. Considering the rival submissions made, this Court disposed of the writ petition by order dated 14.12.2023as under:

“8. In view of the subsequent development that the suit filed before the trial Court is under trial and the evidence of P.W.1 has already been completed and it is pending for cross~examination, this Court, in the interest of justice, is inclined to dispose of this Writ Petition with a direction to the learned Sub Judge, Mudukulathur, to dispose of the suit in O.S.No.34 of 2018, within a period of eight months from the date of receipt of a copy of this order. The petitioner and the respondents shall co~operate with the trial Court for early disposal of the suit.

9. It appears that in view of recent construction which has been put up by the third respondent, already three complaints have been lodged before the fifth respondent. Therefore, in order to avoid law and order, the respondents 3 and 4 shall restrain from putting up any construction, till the disposal of the suit.”

4.The petitioner / Fit Person has approached this Court that the 1st respondent / writ petitioner by adopting delaying tactics is not co-operating to dispose of the suit in OS.No.34 of 2018 on the file of the Sub Court, Muthukulathur and therefore, the trial is not concluded as directed by this Court in WP(MD)No.29210 of 2023 dated 14.12.2023. She further states that in view of the restrictions imposed in the order, the renovation and the construction work carried out in the temple and samadhi are put on hold and it is causing so much inconvenience to the public. Therefore the Fit Person has approached this Court to recall the particular portion of the order restraining the



respondents 3 and 4 in the writ petition in WP(MD)No.29210 of 2023 from putt construction in the temple.

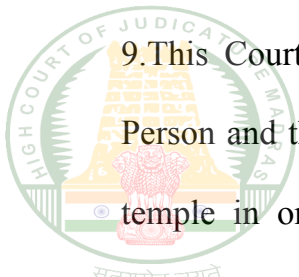
5.The learned counsel for the petitioner has made several allegations as against the 1st respondent that he has swindled the income of the temple properties for which he is facing two criminal cases and he is dragging the proceedings before the civil court without co-operating for the trial.

6.The learned Counsel for the 1st respondent / writ petitioner has disputed the same and submitted that the 1st respondent has completed his defence.

7.The learned Sub Judge, Muthukulathur has submitted a report dated 18.11.2024 as under :

“On 28.03.2024, the plaintiff side examined P.W.2 and on 05.04.2024, the P.W.2 was absent and on 12.04.2024, though P.W.2 present, the plaintiff side counsel absent and on 22.04.2024, the P.W.2 absent and on 29.04.2024, the P.W. 2 present and cross examined and summer vacation intervened and on 03.06.2024, the P.W.3 was chief examined and on 07.06.2024, the P.W.3 was cross examined and on 12.06.2024, 19.06.2024, 26.06.2024, 03.07.2024, 15.07.2024, 22.07.2024, the case was posted for further plaintiff side witness and on 22.07.2024, under Order 16 Rule 1 Civil Procedure Code Petition was filed and that was returned on 23.07.2024 and thereafter on 02.08.2024, the said petition was numbered and on 06.08.2024, 09.08.2024, the said I.A.Number 04/2024 was pending and the same was allowed on 13.08.2024 and thereafter on 16.08.2024, witness batta was paid and on 30.08.2024, though summons served, the witness did not appear and on 03.09.2024, the P.W.4 was examined by both side and on 09.09.2024, again under Order 16 Rule 1 of Civil Procedure Code petition was filed by the plaintiff and that was returned on 10.09.2024 and 13.09.2024 the same was represented and on 18.09.2024, the same was numbered and pending till 15.10.2024 and the Pooja Holidays intervened and on 17.10.2024 witness batta was paid and the same was not served till 18.11.2024 and pending as Await witness summons and so it is not able to dispose the case within stipulated period.”

8.This Court considered the rivals submissions made and perused the materials placed on record.



9. This Court by order dated 14.12.2023 in WP(MD)No.291210 of 2023 has directed

the Person and the Assistant Commissioner to restrain from proceeding with the construction of the temple in order to avoid any dispute between the writ petitioner and the donors. The writ petitioner claims that this temple was established by their forefathers and the samadhi belongs to

their forefathers. The writ petitioner was in the administration of the temple as hereditary trustee from the year 2008 to 2015. It appears that two criminal cases have been registered as against the writ petitioner that he has cut and sold the prosopis juliflora trees from the temple lands without permission and has appropriated the amount. In the case registered in Crime No.59 of 2015, the police has filed the final report as against the writ petitioner in CC.No.96 of 2023 and the same is now pending before the Judicial Magistrate Court, Pramakudi. Apart from this case, yet another case is also pending against him. Therefore the Assistant Commissioner, by his order dated 24.02.2015 has appointed the Executive Officer of Kollangudi Kalliamman Temple, Sivagangai Taluk as the Fit Person of the Sri Kumarakadavul @ Subramaniasamy temple and Karuppapillai Madam, Valanadu village, Muthukulathur taluk. Admittedly this temple is a public temple, which is under the control of the HR and CE Department under Section 49(1) of the HR and CE Act. It is also claimed that this temple is a scheme temple and the scheme was framed in OA.No.22 of 1962 on 24.09.1964 by the then Deputy Commissioner, HR and CE Department, Madurai. This Court taking note of the suit filed by the writ petitioner and also considering the representation made on behalf of the writ petitioner that the suit was at the stage of trial, disposed of the writ petition with a specific direction to the Sub Court, Muthukulathur to conclude the trial in the suit in OS.No.34 of 2018 within a period of eight months from the date of receipt of the order. It appears that the order dated 14.12.2023 was made ready and despatched in January 2024. The fact remains that the trial in OS.No.34 of 2018 has not been concluded as directed by this Court. This Court restrained the temple authorities from putting up construction, considering the direction issued to the trial Court to conclude the trial within the stipulated time. From the report filed by the learned Sub Judge, Muthukulathur it appears that the 1st respondent / writ petitioner /



the plaintiff in the suit in OS.No.34 of 2018 is delaying the proceedings in the suit and this Court recalls the order dated 14.12.2023 restraining the department from putting up any construction till the disposal of the suit. Further the order dated 14.12.2023 is modified as under:

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(i)The 4th respondent / Fit Person is permitted to proceed with the construction work through the donors after getting an undertaking from them that they will not claim any right over the property or on the construction made by them at any point of time. If any construction is made, it shall not affect the case of the writ petitioner in OS.No.34 of 2018 on the file of the Sub Court, Muthukulathur.

(ii)The learned Sub Judge, Muthukulathur is directed to conclude the trial in OS.No.34 of 2018 as expeditiously as possible without any further delay adhering to the earlier directions issued in the order dated 14.12.2023, without being influenced by any of the observation made in this order.

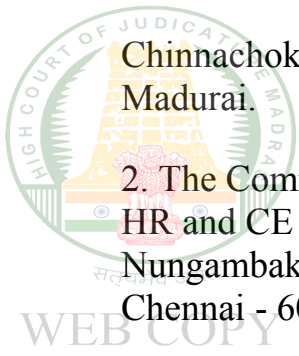
(iii)The 1st respondent / writ petitioner is expected not to interfere with the renovation and construction work in the temple and he has to work out his remedy only in the suit in OS.No.34 of 2018.

10.This miscellaneous petition is allowed accordingly. No costs.

20-02-2025

DSK

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S/o.Balakrishnan,
42 F Raja Apartments,
HAK Road,



Chinnachokkikulam,
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B.PUGALEND



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