

W.P.(MD)Nos.4620 & 4621 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 25.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)Nos.4620 & 4621 of 2025

and

WMP (MD) No.3311 of 2025

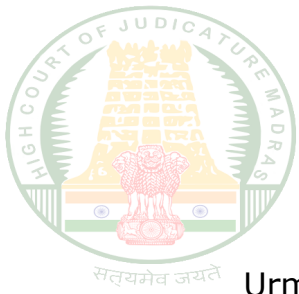
In W.P.(MD) No.4620 of 2025:

R.Muthu

... Petitioner

Vs.

- 1.The Principal Secretary,
Tamil Nadu HR & CE Department,
Secretariat, IX Floor,
St. George Fort,
Chennai-600 009.
- 2.The Commissioner,
HR & CE Department,
Nungambakkam,
Chennai-600 009.
- 3.The Superintendent of Police,
Tenkasi,
Tenkasi District.
- 4.S.Sachichanantham, President,
Urmelalagiyar Arulmigu Kulasekaran
Amman Kovil Komarathar Trust.
(UAKAKK Trust),
Arulmigu Kulasekara Amman Kovil,



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Urmelalagiyam Village Post,
Kadayanallur Taluk,
Tenkasi District.

5.The Fit Person,
Arulmigu Kulasekara Amman Temple,
Urmelalagiyam having office at
Arulmigu Muppadathi Amman Temple,
Kadayanallur, Tenkasi District.

6.C.Arulmozhi

[R4-amended, R5 & R6 are impleaded
vide order of this Court dated 22.04.2025
in WMP (MD) No.7089/25, WMP(MD) No.4240/25 &
WMP (MD) No.7379/25 by VSJ]

... Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus for a direction to permit the trust members of Sri Kulasekara Amman Koil, Komarathar to conduct a Kudai Festival for each year with the help of the third respondent and direct the respondents 1 & 2 not to interfere or hinder the festival based on the petitioner representation dated 09.02.2025.

For Petitioner : Ms.Indhira

For Respondent : Mr.K.S.Selva Ganesan, AGP
Nos.1 & 2

For Respondent-3 : Mr.K.Gnanasekaran, GA (Crl. Side)

For Respondent-4 : Mr.R.Maheswaran



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For Respondent-5 : Mr.S.Manohar

For Respondent-6 : Mr.K.Jeyamohan

In W.P.(MD) No.4621 of 2025:

S.Kulasekaran (President)
Arulmigu Sri Kulasekara Amman Kovil
Komarathar Youth Federation,
1/57, Water Tank Street,
Urmelalagiyan Village Post,
Kadayanallur Taluk,
Tenkasi District.

... Petitioner

Vs.

1.The Principal Secretary,
Tamil Nadu HR & CE Department,
Secretariat, IX Floor,
St. George Fort,
Chennai-600 009.

2.The Commissioner,
HR & CE Department,
Nungambakkam,
Chennai-600 009.

3.The Joint Commissioner,
HR & CE Department,
Thoothukudi.

... Respondents



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PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned notice in 02/2025/A2 dated 04.02.2025 on the file of the third respondent and quash the same as illegal and consequently for a direction, direct the third respondent to not to interfere or initiate any proceedings in this "Arulmigu Kulasekaran Amman Thirukovil-Urmelalagiyan Village" till the disposal of the revision petition aroused in order No.12784/2022 dated on 02.05.2022 pending before the first respondent.

For Petitioner : Ms.Indhira

For Respondent : Mr.K.S.Selva Ganesan, AGP
Nos.1 & 2

For Respondent-3 : Mr.K.Gnanasekaran, GA (Crl. Side)

COMMON ORDER

The petitioner has filed the present Writ Petition in W.P.(MD) No.4620 of 2025, seeking a direction to the respondents 1 & 2 to permit the trust members of Sri Kulasekara Amman Koil, Komarathar to conduct the "Kudai Festival" every year without any interference or hindrance with the help of the third respondent/Superintendent of Police, Tenkasi based on the petitioner's representation dated 09.02.2025.



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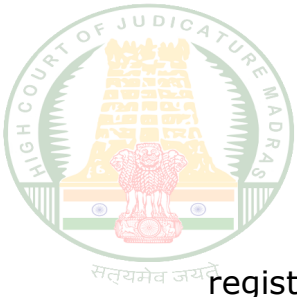
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2. The notice dated 04.02.2025 passed by the third respondent/the Joint Commissioner, Thoothukudi has been put under challenge by the petitioner in W.P.(MD)No.4621 of 2025. The petitioner has further sought a direction to the third respondent/ the Joint Commissioner, Thoothukudi not to interfere or initiate any proceedings in regard to "Arulmigu Kulasekaran Amman Thirukovil-Urmelalagiyan Village" till the disposal of the revision petition aroused in order No.12784/2022 dated 02.05.2022 pending before the first respondent.

3. Since the issue involved in both the petitions revolves around the rights and administration of the temple namely, "Arulmigu Kulasekaran Amman Thirukovil-Urmelalagiyan Village" and the orders passed related to the same by the official respondents herein, are one and the same, both the Writ Petitions are taken up together and disposed of, by way of a common order.

4. The gist and kernel of the case of the petitioner in both the petitions are as follows:

The subject temple is a private temple which belongs to their ancestors viz., Komarathar community and they have also formed a



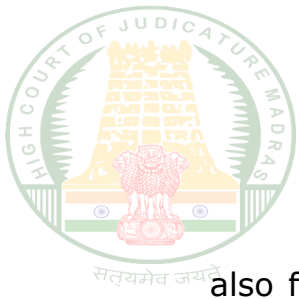
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registered trust to administer the temple affairs such as poojas, festivals etc. Now some other communities of the village are trying to claim over their right and creating problems in the routine administration of the temple, as well as in conducting the festivals every year. It is also their grievance that pending revision before the first respondent/Principal Secretary, HR & CE Department challenging the appointment of Fit Person and the O.A.No.9 of 2024 claiming over the rights of the temple and appointment of Fit Person, the Joint Commissioner, Thoothukudi, without considering the aforesaid aspects, has passed the impugned order dated 04.02.2025.

5. Aggrieved over the same, the petitioners have come forward before this Court seeking directions to the official respondents namely, the Principal Secretary, HR & CE, Chennai, the Commissioner, HR & CE, Chennai and the Joint Commissioner, Thoothukudi for the above stated reliefs in the Writ Petitions respectively.

6. The learned counsel for the petitioner in both the Writ Petitions submitted that the temple belongs to their ancestors and they have been administering the temple for the past 150 years and

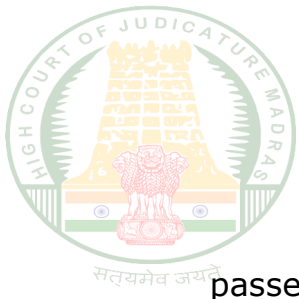


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also formed a registered trust to maintain the temple. She further contended that since a revision challenging the appointment of the Fit Person and an Original Application, claiming rights over the temple as well as challenging the appointment of Fit person to the temple, are pending before the first respondent and the Joint Commissioner, Tirunelveli now, the Joint Commissioner, Thoothukudi without considering the same, has passed an order dated 04.02.2025, which is an abuse process of law and the same is liable to be quashed. She also contended that the original application pending before the Joint Commissioner, Thoothukudi has been now transferred to the Joint Commissioner, Tirunelveli as the petitioner is of the opinion that the Joint Commissioner, Thoothukudi is acting biased in the matter. Furthermore, she urged that permission has to be granted to them to conduct "Kudai Festival" without any interference and hindrance by the official respondents, as well as by any private parties and prayed to allow the present Writ Petitions.

7. In furtherance, she contended that there was no communal issues till 2019 and to substantiate their stand that the temple is a private temple, the learned counsel cited the content of the interim order passed by the Hon'ble Division Bench of this Court in WP (MD) No.10653 of 2020 dated 02.11.2020. She highlighted the order



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passed by a learned Single Judge of this Court in W.P.(MD) No.9386 of 2024 dated 25.04.2024. The relevant portion of the order is extracted hereunder for useful reference:

"12.This Writ Petition is disposed of by directing the second respondent or any other Senior Officer to ensure that the Temple festival namely, Kudai festival in the subject Temple viz., Arulmigu Sri Kulasekara Ammal Kovil is conducted under the strict supervision of the H.R. & C.E. Department

13.The sixth respondent as also the Deputy Superintendent of Police, Tenkasi District, shall ensure that adequate number of Police force is deployed on the date on which the Temple festival is to be conducted. Therefore, it will be the responsibility of the sixth respondent or the Deputy Superintendent of Police, Tenkasi District, to ensure that there is no untoward communal clashes on account of the Kudai Temple festival. All the worshippers and devotees shall be allowed to participate in the Temple festival under the supervision of the H.R. & C.E. Department."

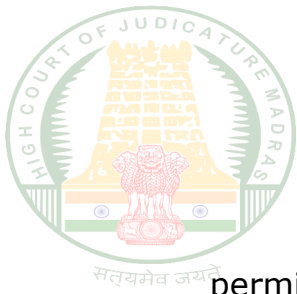


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8. Moreover, she drew the attention of this Court to the Hon'ble Division Bench's order dated 24.01.2025, wherein this Court had directed the first respondent to dispose of the revision dated 21.01.2025 preferred by the petitioner within a period of six months from the date of receipt of copy of the said order. She also submitted that the original application in OA.No.9 of 2024 which was transferred to the Joint Commissioner, Tirunelveli from the Joint Commissioner, Thoothukudi and renumbered as O.A.No.1 of 2025 was withdrawn by them now and subsequently, filed a suit in OS (IA) No.2 of 2025 before the learned Principal District Munsif, Tenkasi.

9. In continuation, she strenuously argued that since the revision against the appointment of the Fit Person for a private temple and the suit for entitlement of the temple were pending before the first respondent herein and the learned Principal District Munsif, Tenkasi, respectively, without complying the orders of this Court, the respondents/HR & CE Department the impugned notice has been passed by the Joint Commissioner, Thoothukudi, without application of mind. She submitted that the official respondents have no role to play in the temple affairs and prayed this Court to



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permit them to conduct the Kudai festival without any hindrance in line with the order of the learned Single Judge of this Court in W.P. (MD) No.9386 of 2024 dated 25.04.2024 and also to stay any further proceedings of the respondents/HR & CE Department till the disposal of the revision as well as the suit as stated supra.

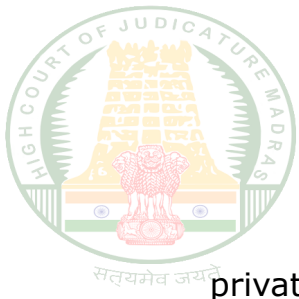
10. In support of her contentions, the learned counsel drew the attention of this Court to the following decisions of the Hon'ble Supreme Court:

a)Sri Marthanada Varma (D) through LRs. V. State of Kerala [SCC Civil Appeal No.2732 of 2020]

b)The Commissioner Hindu Religious Endowment Department, Madras V. Lakashmindra Thirtha Swamiyar Sri Shirur mutt [SCC. Civil Appeal 38 of 1953]; and

c)Dr.Subramanian Swamy V. State of Tamil Nadu & Others [SCC Civil Appeal No.10620 of 2013.

11. Per contra, the learned Additional Government Pleader appearing on behalf of the official respondents vehemently opposed these petitions contending that the subject temple in issue is a

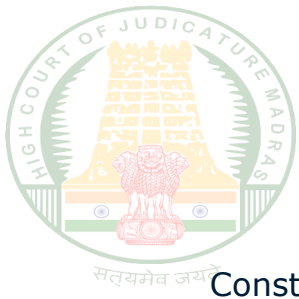


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private temple has not been established by the petitioners and hence, the relief sought for by the petitioners, cannot be entertained. He further submitted that the appointment of Fit Person and control over the temple by the HR & CE Department, has been put under challenge in O.A.No.9 of 2024 and the revision filed for the entitlement of the petitioner's right over the temple and a consequential appointment of the Fit Person have been pending. Therefore, the reliefs sought for by the petitioners as their right over the temple and to conduct Kudai festival every year by them at this stage without obtaining any orders in their favour, is unsustainable and non-est in the eye of law. He also submitted that the order of the Joint Commissioner, Thoothukudi dated 04.02.2025, is only a show cause notice calling upon the petitioner to render their case, for which without appearing before them, they have approached this Court by way of filing the present petition.

12. It is also the submissions of the learned Additional Government Pleader that there is a possibility for communal clash in regard to the conduct of the said temple festival and it is also pertinent to note that the appointment of the Fit Person is in force and no adverse orders has been obtained against it by the petitioners. Hence, as a fundamental right provided by our

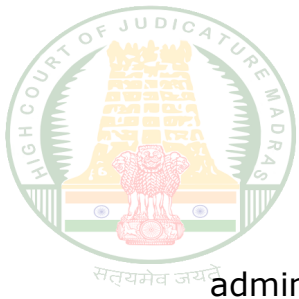


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Constitution, without obtaining any legal right over the subject temple, neither an individual nor any community can claim right over it. Furthermore, it is to be taken into account a "Fit person" has been appointed to administer the temple's affairs. Therefore, the festival has to be conducted by the temple administration and that there is no bar to the petitioners/petitioner's community to participate in the festival. In respect of the proceedings of the Joint Commissioner, Thoothukudi in W.P.(MD) No.4621 of 2025, the learned Additional Government Pleader submitted that merely for a notice, the petitioner without appearing before the Joint Commissioner, Thoothukudi where they could have addressed all their grievances to sort out their reliefs, have approached this Court by way of the present petition, which is unsustainable. In view of the aforesaid submissions, he prayed this Court to dismiss the petitions.

13. The learned counsel for the sixth respondent/Arulmozhi while advancing his arguments has submitted that as per the revenue records, the subject temple is situated in Government Poramboke land and as such, neither an individual nor any community can claim right over the same. He further submitted that the temple has a long old history and jointly constructed and



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administered and worshipped by various communities. He argued that the petitioners herein high-handedly taken over the temple to their custody and prevented the other communities to enter the temple and worship the deity, which is in gross violation of the fundamental rights stated under Article 21 of the Constitution of India. Moreover, the temple has been taken over by the HR & CE Department and a 'Fit Person' was also appointed through proceedings dated 23.04.2024, which has been challenged by the petitioners in O.A.No.9 of 2024 and it is relevant to note that a revision before the Principal Secretary, HR & CE Department has been filed against the appointment of the Fit Person, were pending. While that being so, the petitioners cannot urge that the temple belongs to them and they only have the rights over it without any legal proofs. He argued that the petitioner's challenge in regard to the proceedings of the Joint Commissioner, HR & CE, Thoothukudi dated 04.02.2025 is nothing but only a notice issued by the authority for initiation of proceedings under Section 101 of HR & CE Act. He also drew the attention of this Court to the orders passed by the Hon'ble Division Bench and the Single Bench of this Court dated 24.01.2025 and 25.04.2024 respectively. Thus, for the reasons stated above, he prayed this Court not to entertain the present Writ Petitions.



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14. I have considered the rival submissions of the learned counsels on either side and also perused the materials available on record.

15. On an overall and careful perusal of the records and considering the submissions put forth by the parties on either side, it is seen that several litigations have been filed by the parties on either side over the same issue and this Court had also passed orders related to it. Time and again, the parties are filing petition after petitions for the same issue which reveals that the dispute among them have not come to an end.

16. In respect of the relief sought for in W.P.(MD) No.4620 of 2025, this Court is of the considered view since the issues regarding the subject temple are pending before the lower Court and authorities concerned, the petitioner, family member of Komarathar in Thuluva Vellalar community of Arulmigu Kulasekara Amman Thirukovil is permitted to conduct the Kudai festival according to their customary practice with the aid of the third respondent so as to prevent any communal discrimination in worship during the said festival.



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17. In regard to the relief sought for in W.P.(MD) No.

4621 of 2025, apparently, since the O.A. No.9 of 2024 filed under Section 63 (b) & (c) challenging the order of the HR & CE Department in regard to control over the subject temple and a consequential appointment of the Fit Person to the temple in a hurried manner without following due process of law to the subject temple which was later transferred and renumbered as O.A.No.1 of 2025 on the file of the Joint Commissioner, Tirunelveli was withdrawn and an unnumbered suit in O.S.(IA) No.2 of 2025 was preferred by the petitioner before the learned Principal District Munsif, Tenkasi and the revision preferred under Section 113-A of the HR & CE Act against the appointment of the Fit Person to the subject temple have not attained its finality. It is pertinent to refer the order of the Hon'ble Division Bench of this Court in W.P(MD) Nos.10653 of 2020 & batch dated 24.01.2025, wherein the Court had directed the first respondent/Principal Secretary, HR & CE Department, to dispose of the revision dated 21.01.2025 on its own merits and pass appropriate orders in accordance with law, after giving due opportunity to all the interested parties, within a period of six months from the date of receipt of a copy of the said order. In the light of the aforesaid order, the impugned notice dated



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04.02.2025, is hereby quashed and consequently, the official respondents of the HR & CE Department are directed not to interfere or initiate any proceedings till the disposal of the suit as well as the revision.

18. It is paramount to give quietus to the issue as several litigations are filed in this regard, this Court directs the first respondent herein to dispose of the revision and the learned Principal District Munsif, Tenkasi to dispose of the suit stated supra pending in this regard, within a period of eight months from the date of receipt of a copy of this order, failing which, appropriate action shall be taken against the concerned officials.

19. The Writ Petitions are disposed of with the above observations and directions. Consequently, connected Miscellaneous Petition is closed. There shall be no orders as to costs.

25.04.2025

Index : Yes / No
Internet: Yes / No
NCC : Yes / No
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To

- 1.The Principal Secretary,
Tamil Nadu HR & CE Department,
Secretariat, IX Floor,
St. George Fort,
Chennai-600 009.
- 2.The Commissioner,
HR & CE Department,
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VIVEK KUMAR SINGH, J.

DP

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and

WMP (MD) No.3311 of 2025

25.04.2025