BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.03.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

W.A(MD) No.322 of 2022
and
C.M.P.(MD)No.3179 of 2022

Balamurugan ... Appellant / Writ Petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
119, Uthamar Gandhi Road,
Nungambakkam, Chennai.

2.The Joint Commissioner,
Administration,
Hindu Religious and Charitable Endowments Department,
Trichy.

3.S.Mahendran ... Respondents / Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the Judgment dated 10.03.2022 in W.P.(MD)No. 4263 of 2022 on the file of this Court.

For Appellants : Mr.VR.Shanmuganathan

For Respondents : Mr.K.S.Selvaganesan
Additional Government Pleader
for R1 & R2
: Mr.S.Anwar Sameem
for R3

ORDER

(Order of the Court was made by **G.R.SWAMINATHAN, J.)**

The case on hand pertains to the management of Arulmighu Pichayee Amman Temple, Manachanallur Taluk, Trichy District. The temple is presently being managed by Thiru.Balamurugan / appellant herein. Mahendran lodged complaint before the HR & CE Department that the temple is being mismanaged. Taking cognizance of the said complaint, the Joint Commissioner, HR & CE Department, Trichy issued proceedings dated 29.11.2021 appointing fit person for the temple. Balamurugan filed W.P.(MD)No.21873 of 2021 challenging the same. The order dated 29.11.2021 was set aside and the matter was remanded to the file of the authority to pass order afresh after due enquiry. Pursuant to the said direction, the Joint Commissioner, HR & CE

Department, Trichy passed an order dated 12.02.2022 issuing certain directions. Challenging the same, Balamurugan filed W.P.(MD)No.4263 of 2022. The learned single Judge disposed of the writ petition vide order dated 10.03.2022 in the following terms:-

> "6. Pursuant to the aforesaid order, the second respondent has now passed the impugned order denovo. In the denovo proceedings, as mentioned in the beginning of this order, the impugned order has given certain innocuous directions to the petitioner. The petitioner cannot have any complaint as the petitioner has been asked to merely maintain accounts and file appropriate documents regarding the assets of the temple etc. Therefore, to that extent, there cannot be any interference by the petitioner either before this Court or before appellate authority or revisional authority under the Hindu Religious and Charitable Endowments Act, 1959. However, asking the petitioner to work out an alternate remedy once again before the civil Court prima facie appears to be beyond the powers vested with the second respondent Joint Commissioner inasmuch as the suit filed by the petitioner's grandfather and granduncle in O.S.No.407 of 1980 has conclusively decided the issue. Similarly, the direction in the penultimate paragraph of the impugned order asking for a meeting of the members to appoint a hereditary trustee also appears to prima facie contrary to the judgment and decree of the Trial Court in O.S.No.407 of 1980.
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> 7. Therefore, I am inclined to keep the operation of the last two paragraphs in the impugned order in abeyance for a period of sixty days from the date of receipt of copy of this order with liberty to the petitioner to work out an alternate remedy under Section 21 of the Hindu Religious and Charitable Endowments Act before the Commissioner.
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> 8. In proposed application under Section 21 of the Hindu Religious and Charitable Endowments Act, the petitioner shall array the

> third respondent, herein, as a respondent. Such application shall be filed within a period of thirty days. In the said proceeding, the petitioner is also given a liberty to file a miscellaneous application for continuation of this interim order beyond 60 days pending disposal of such application before the Commissioner under Section 21 of the Act."

Challenging the same, Balamurugan has filed this writ appeal.

2. The learned counsel appearing for the appellant reiterated all the contentions set out in the memorandum of grounds of writ appeal and submitted that when once the learned single Judge had found that the directions issued by the authority run counter to the civil Court's decree, he ought to have set aside the order in *toto* and not relegated the appellant to go before the appellate authority.

3. Per contra, the learned counsel appearing for the private respondents as well as the learned Additional Government Pleader appearing for the department submitted that the directions have been issued only after keeping in mind the proper administration of the temple and not for any other purpose. The learned Additional Government Pleader also emphasized that the authority had called upon the appellant to maintain the accounts so that they can be subject to audit under

Section 87 of the Tamil Nadu HR & CE Act. He drew our attention to the decision reported in (1980) 2 MLJ 358 (Tamarakulam Vellala Samudhayam Vs. The State of Tamil Nadu) in which it was held that even a denominational temple has to pay contribution and audit fee. The learned counsel for the respondents submitted that the writ appeal deserves to be dismissed.

4. We carefully considered the rival contentions and went through the materials on record. It is not in dispute that the subject temple was declared as a public and excepted temple vide Board's Order No.1875, dated 03.12.1932. It was held therein that the trustee had been in management of the temple hereditarily. The Sub Court, Trichy in O.S.No.407 of 1980 declared that the subject temple is a denominational institution. Therefore, when once the temple had been declared as a denominational temple, the authority under the HR & CE Act cannot have any power to appoint the fit person for the temple. This position is well settled. Now the only question that calls for consideration is whether the Joint Commissioner, HR & CE Department was justified in issuing a slew of directions vide order dated 12.02.2022. While the Joint Commissioner may not have the authority to issue such directions, we by

exercising *parens patriae* jurisdiction, propose to sustain them substantially. The temple in question may not have been endowed with large number of properties. But then, as many as 8 shop keepers and three houses are said to be paying rent to the temple management. Therefore, in the very nature of things, the trustee has to necessarily open a bank account and maintain proper accounts. The transactions will have to be necessarily through cheques. The learned counsel for the appellant states that these directions have already been implemented. It is further undertaken by the learned counsel for the appellant that on the occasion of Maha Sivarathri, the accounts will be displayed in the notice board. The appellant is directed to file an affidavit before this Court setting out the property details belonging to the temple. We declare that neither the appellant nor any individual can claim any right on the temple property. The appellant is also directed to take appropriate steps to ensure that the temple properties fetch maximum returns and they are also taken care. As regards the claim of the private respondent that he is also entitled to rights in the management of the temple, it is for him to file an appropriate civil suit and work out his right independently. The order impugned in the writ appeal is set aside. The writ appeal is allowed on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S., J.) (M.J.R., J.)
11.03.2025

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
rmi/SKM

To

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AND
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