BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.04.2025

CORAM

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

W.A.(MD)No.630 of 2022
and
C.M.P.(MD)No.5246 of 2022

S.Vallinayagam ... Appellant

Vs.

1.The Commissioner,
Hindu Religious and Charitable
Endowment Department,
Chennai.

2.The Joint Commissioner,
Hindu Religious and Charitable
Endowment Department,
Madurai-1.

3.The Executive Officer,
Arulmigu Meenakshi Sundareshwarar Temple,
Madurai Town. ... Respondents

Prayer : Writ Appeal filed under Clause XV of Letters Patent, to allow the writ appeal by setting aside the order dated 19-04-2022 in W.P.(MD).No.11181 of 2017 on the file of this Court.

For Appellant : Mr.S.Parthasarathy,
For Mr.AN.Ramanathan

For Respondents : Mr.K.S.Selvaganesan,
Addl. Government Pleader for R1 & R2.
Mr.V.R.Shanmuganathan for R3.

JUDGMENT

Heard both sides.

2.The management of Arulmighu Meenakshi Sundareshwarar Temple and the trustees of Sri Mottaigopuram Muneeswarar Temple are at loggerheads. The Executive Officer of Meenakshi Sundareshwarar Temple installed a hundial right in front of the idol of Mottaigopuram Muneeswarar. Hence, the appellant herein who is a hereditary trustee of Mottaigopuram Muneeswarar Temple filed W.P.(MD)No.244 of 2017. The writ petition was disposed of by the learned Single Judge on 06.01.2017 by relegating him to go before the Joint Commissioner, Hindu Religious and Charitable Endowments Department, Madurai. Thereupon, the appellant represented to the said authority. Vide order dated 14.04.2017, the appellant's request was rejected and the appellant was also called upon to work his rights by filing an application under Section 63(a) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. Challenging the said order, the appellant filed W.P.(MD)No.11181 of 2017. The writ petition was disposed of vide order dated 19.04.2022 in the following terms:-

> *"16.I do not find anything offensive in the impugned direction of the second respondent, directing the petitioner to file an appropriate application under Section 63(a) of the H.R. & C.E. Act. I am therefore unable to take a different view. Therefore, I am inclined to dispose this Writ Petition, by directing the petitioner to file an application within a period of 30 days from the date of receipt of a copy of this order under the above said provision before the second respondent herein, who shall consider the petitioner's case and the third respondent's case and pass appropriate orders on merits. The second respondent shall endeavour to pass final orders preferably within a period of six months from the date of receipt of a copy of this order. It is made clear that this order shall stand automatically vacated, in case, the petitioner fails to file such an application before the second respondent – Joint Commissioner, Madurai, within the above stipulated time limit. Pending resolution of the proposed application by the second respondent, the third respondent Temple is directed to furnish proper accounts of the Hundial receipts and collection before the second respondent – Joint Commissioner, Madurai. The amounts collected shall be*

appropriated in accordance with law. In case, it is concluded that Sri Mottaigopuram Muneeswarar Temple is a public Temple, the authorities acting under the H.R. & C.E. Act are empowered to take appropriate steps to bring the above said Temple under the purview of the H.R. & C.E. Act."

Questioning the same, this writ appeal has been filed.

3.Section 63(a) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 reads that the Joint Commissioner or Deputy Commissioner as the case may be shall have power to inquire into and decide whether an institution is a religious institution. This by implication means that the Joint Commissioner or Deputy Commissioner will have the power to pronounce on the public or private character of the religious institution.

4.The learned counsel for the appellant drew our attention to the judgment and decree made in A.S.No.172 of 1910 dated 31.12.1910 on the file of the District Court, Madurai. When the management of Meenakshi Sundareshwarar Temple sought to interfere with the running of Mottaigopuram Muneeswarar Temple, the trustees of Mottaigopuram

Muneeswarar Temple filed an injunction suit in O.S.No.11 of 1909 on the file of the District Munsif Court, Madurai. On 18.02.1910, it was declared that Mottaigopuram Muneeswarar Temple is a private temple. This judgment was confirmed vide judgment and decree dated 31.12.1910 in A.S.No.172 of 1910 also. This declaration in favour of Mottaigopuram Muneeswarar Temple was reiterated vide order dated 21.03.1940 in O.P.No.33 of 1939 on the file of the District Court, Madurai.

5.When these judgments of the jurisdictional civil Court are in favour of the trustees of Mottaigopuram Muneeswarar Temple, it is only the department which will have to initiate proceeding as per law to have the said declarations reversed. The trustees of Mottaigopuram Muneeswarar Temple are under no obligation to once again get a declaration under Section 63(a) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. This aspect of the matter was not taken note both by the authority as well as the learned Single Judge.

6.In this view of the matter, the order impugned in the writ petition as well as the order impugned in this writ appeal are set aside and the writ appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S. J.,) & (M.J.R. J.,)
15.04.2025

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

1.The Commissioner,
Hindu Religious and Charitable
Endowment Department,
Chennai.

2.The Joint Commissioner,
Hindu Religious and Charitable
Endowment Department,
Madurai-1.

G.R.SWAMINATHAN, J.
and
M.JOTHIRAMAN, J.

ias

W.A.(MD)No.630 of 2022

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