



W.P.(MD) No.12917 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

**W.P.(MD) No.12917 of 2023
and
W.M.P.(MD) No.10940 of 2023**

Sri Pethanasamy Sri Chinnakaruppasamy Temple Trust,
represented by its Managing Trustee,
M.Alagumalai

... Petitioner

/vs./

- 1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Chennai 600 009.
- 2.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Madurai.
- 3.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Theni.
- 4.The Executive Engineer,
Arulmigu Sundaramahalinga Swamy Temple,
Sathuragiri,
Peraiyur Taluk, Madurai District.



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5.K.Thangam Venkatesh

6.Mayilsamy

7.Murugesan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records relating to the impugned notice dated 17.05.2023 in Na.Ka.No.3690/2022/A2 issued by the third respondent and quash the same.

For Petitioner : Mr.TR.Jeyapalam

For R1 to R4 : Mr.P.Subbaraj
Special Government Pleader

For R5 : No appearance

For R6 & R7 : Mr.D.Srinivasa Raghavan

ORDER

The present writ petition had been filed challenging the notice issued by the third respondent calling for applications for appointment of non hereditary trustees for the temple, namely Sri Pethanasamy and Sri Chinnakaruppasamy Temple.



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2. The learned counsel for the petitioner would submit that the temple is an ancient denomination temple. Initially, an order of appointment of a Fit Person was made to the temple by the third respondent herein, which came to be challenged before this Court in W.P.(MD) No.17803 of 2021 and this Hon'ble Court after hearing the parties had set aside the order passed by the third respondent, however left it to the authorities concerned to deal with the matter after following the due process of law. Thereafter, without initiating any further proceedings, during the pendency of the suit filed for declaration that the said temple is a denomination temple, in which the respondents 1 and 2 are the parties, the present notice had been issued. He would submit that the present notice had been issued only to derail the rights of the parties in the suit and therefore, he would seek interference with the orders passed by the third respondent.

3. Countering his arguments, Mr.P.Subbaraj, learned Special Government Pleader appearing on behalf of the respondents 1 to 4 would submit that the temple is a listed temple and that the same belongs to Thevar community and there has been a counter claim by Aasari community with respect of their right to worship. He would further submit that the lands are only located in the lands



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which had been classified as Government Poramboke lands and that donations are being received from the general public. Therefore, the claim that the temple only belongs to three families of Thevar community is not correct.

4. He would further submit that originally an application to declare that the temple is a public temple was allowed by the Joint Commissioner and affirmed by the Commissioner in appeal, against which a suit in O.S.No.17 of 2014 was filed before the Additional Subordinate Court, Madurai at Thirumangalam and the same has now been renumbered as O.S.No.398 of 2017 and is pending consideration on the file of the Subordinate Court, Thirumangalam.

5. He would further submit that since the temple had already been declared as a public temple, the present impugned notice had been issued. It is always open to the petitioner to make an application for appointment of non hereditary trustee and therefore, pendency of the suit will not preclude the respondents from making any appointment of non hereditary trustees. When the suit is decreed as prayed for, the order of appointment can always be reversed. Hence, he would pray this Court to dismiss this writ petition.



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6. The learned counsel appearing on behalf of the respondents 6 and 7 would submit that the temple is actually a public temple and the petitioner is trying to give a color that it is a private temple. The suit had been vehemently contested and they had also taken steps to implead themselves as party/defendants to substantiate their claim. Therefore, he would submit that the present writ petition does not deserve any indulgence of this Court.

7. I have considered the rival submissions made by the learned counsel on either side.

8. Admittedly, the suit in respect of declaration of the temple is pending consideration before the Sub Court, Thirumangalam in O.S.No.398 of 2017. This Court was also informed that the suit is at the advanced stage. If the suit is decided in favour of the petitioner declaring that the temple is a private temple or denomination temple, then any appointment that is now sought to be made would be detrimental to the interest of the temple, as it would create third party rights. Further, the respondents 1 and 2 are the parties to the said suit and they have also filed a detailed written statement contesting the claim of the petitioner.



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9. In such circumstances, I am of the view that pending the said suit, the Official respondents should not attempt to appoint any non hereditary trustees as the same would only create further confusion on the rights of third parties. In such event, the impugned notice is set aside and the Writ Petition stands allowed. This Court also requests the learned Subordinate Judge, Thirumangalam to dispose of the suit in O.S.No.398 of 2017 as expeditiously as possible. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No
Internet : Yes / No
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02.01.2025

Note:

Registry is directed to mark a copy of this order to the learned Subordinate Judge, Thirumangalam.



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K.KUMARESH BABU, J.

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